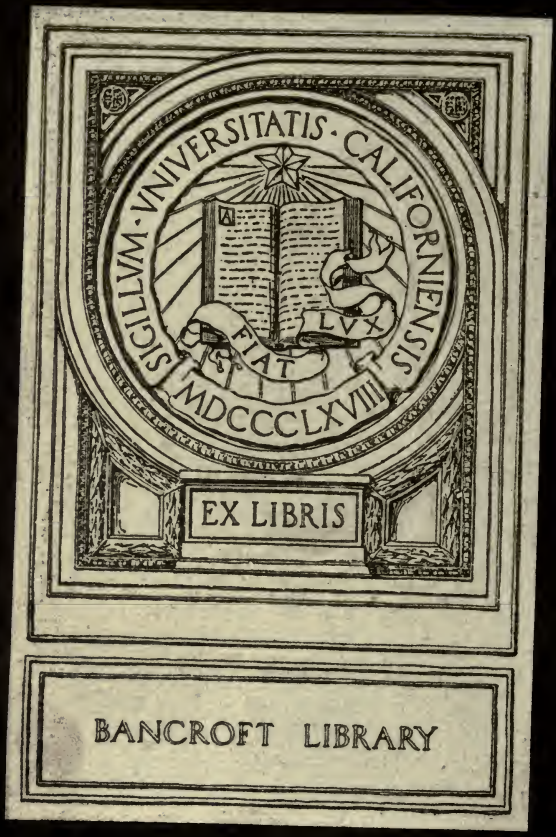
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THE WORKS

OF

HUBERT HOWE BANCROFT.

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THE WORKS

OF

HUBERT HOWE BANCROFT.

VOLUME XXXVII.

POPULAR TRIBUNALS.

VOL. II.

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TO

WILLIAM T. COLEMAN,

CHIEF OF THE GREATEST POPULAR TRIBUNAL THE WORLD HAS EVER WITNESSED,

I DEDICATE THIS VOLUME.

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POPULAR TRIBUNALS.

CHAPTER I.

BALLOT-BOX STUFFING.

When bad men combine the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.

Edmund Burke.

This volume has been reserved for the presentation of the acts of the Grand Tribunal organized by the citizens of San Francisco in 1856.

Since the organization of 1851 a change has come over our youthful city. In the business streets are found evidences of a permanent progressive commonwealth; in the suburbs substantial houses to some extent have taken the place of white tents and board shanties. Throughout the state the change is little less marked. The entire population do not now as formerly wander from place to place in their hunt for gold like the red man in search of food; but civilized industry, agriculture, manufactures, and the gentler arts of domesticity have taken their place beside commerce and mining, and men plant as if intending to await the harvest. Meanwhile hope assumes a rosy hue. That first receding wave of fortune which leaves heart-sinking disappointment—ah, who that has felt it can ever forget it!—incident to failure to secure wealth within the first three months of venture is returning, freighted with nobler than gold-digging resolves. The skies of California, how inspiring they

are; the haughty sun, how kind it has become; and how radiant the vernal hills, the sparkling streams! The bellowing billows of ancient ocean, so lately sounding despair, now break upon the expectant shore in happier harmony, singing to the pregnant valleys a grandsire's lullaby. The stars are all gathering over California; the air is fragrant with fresh longings. Gentle woman comes, and with her soothing presence turns to contentment the restless romance of sorrow. The voices of children are heard. Ambition becomes fixed and reasonable as the shifting sands of San Francisco assume a value approaching that of gold-dust. Gambling-saloons and dens of infamy disappear from the more public places, and school-houses and churches mark the elevation of mind. A paradise of home and home-land opens to the so lately gold-blinded adventurer. Here is a habitation for free men and chaste women; here virtue shall rest and renew herself, and men shall defend her.

Thus to the eyes of those who now began to call themselves Californians began to appear California in the years 1852 and 1853. After that the city-builders grew a little captious, which mood is born of money, ever potential, and none the less imperative by reason of its scarcity. The great wave of prosperity, swelling since the influx of 1849, has begun its subsidence. Gold is no longer as plentiful as cobble-stones; residents wear wry faces, and eastern shippers curse the country. The winter of 1854–5 was dry. Early in 1855 banks begin to fail, and during the months which follow, a financial storm sweeps over the state. Investigations incident to monetary disruptions exhibit a rottenness in the financial institutions of the country little calculated to inspire confidence. Rascally receivers are appointed to settle the affairs of rascally bankers, and the suits and embezzlements which follow leave little for creditors.

The evil-doers of former days, baptized into a virtuous life by the fires of 1851, now appear upon the

streets in dazzling hues, like serpents flaming from their cast-off winter gear in the glittering spring sunlight.

Likewise politics and villainy are different from what they were. State finances are in a deplorable condition. With constitutional power to create a debt not exceeding three hundred thousand dollars, the state owes twelve millions. The liberal gifts of the general government in swamp and tide lands for school purposes have been frittered away. While yet in her nonage California's vast inheritance has been swallowed by hungry sharks, and now debt and talk of repudiation are the burden of her meditations. The state legislature is a scoff and a by-word, a reproach to common intelligence, common honesty, and common decency. Its members for the most part are the tools of unscrupulous knaves, who buy and sell them like sheep in the shambles, even as we see done to-day.

"At this time the state and city governments had become little less than organized systems for public plunder," writes H. P. Coon, an attentive observer of public affairs, in a manuscript narrative contributed to the history of this epoch.

At this juncture, antagonistic to the so long dominant democracy, arose the know-nothing party, promising radical reform. Good citizens believed their promises, and many who did not care to join their wigwams sympathized and voted with them. At the autumn elections of 1854 the new party was irresistible. The manipulators of elections had thought to outcount the reform candidates at the polls, but their opponents were too strong and too watchful for them. The new party came into power and the people breathed more freely. Great things were expected of them. But alas! within their ranks had crept the ancient spoilmen. Disappointment was the fruit of victory. Taxes increased to four dollars on the hundred, and the money collected was dissipated by officials immediately it touched the treasury box. Those who held

claims for labor or material were obliged to receive in payment scrip whose market value was from twenty to thirty cents on the dollar, thus obliging the city to pay often five prices for everything. Into the capacious maw of the political banking-house of Palmer, Cook, and Company, on Kearny street, went the people's money, of which there was an abundance collected for all necessary purposes, and thence it was distributed to those who sustained the organized system of plunder.

"No perjury was too black, no murder too foul," says Mr Coon, "if they were necessary to support that system or to extinguish opposition to it. Criminals of every shade had influence with the government and the administration of the laws, and petty thieves and vagrants were almost the only ones whose crimes were punished. The entire public press had become subsidized, or overawed, and whosoever raised his pen or his voice against the evils of the times became a marked man."

The impudent vagabonds of low extraction who had seized the reins of government, ruled the staid adherents to eastern morals as though they possessed some inherited right to such domination. With this doctrine they seem to have been impregnated, like Thracian mares, by the wind. But the very impudence of their pretensions drew them on to swifter destruction. There are never lacking men as fond of power as the bear is of honey, who often get stung by thrusting their nose into a hornet's nest. It was the governing element in the community which most of all required governing.

These politicians whom the attractions of public plunder had welded into powerful rings, exercised in San Francisco a tyranny far more despotic and galling than that which preceded the separation of the American colonies from the kingdom of George III. The political power which they had usurped gave them control of the ignorant and subservient masses, while

the prestige of legitimacy drew to their support many well meaning citizens, just as in past ages the fanaticism of divine kingship arrayed multitudes of good men against struggling patriots.

Slowly fell upon them the conviction of the best men, as they strove to rescue municipal affairs from the increasing misrule of the officials and their associates, that they had been sleeping; that the moral force of the community, which signifies the majority, while deeming themselves but transient sojourners in California, and while absorbed in their eager pursuit of wealth, had paid little attention to public affairs, and before they were awakened to the importance of these duties the unprincipled men who had acquired the offices had consolidated their strength and had skilfully combined so as to hold the balance of power between the political parties and retain control of the government. Thus again, unhappily, to the law came evil days. Following its first rescue, it performed its functions for a time with fair success, until it grew so strong that its enemies despaired of ever again beating it to the wall. So they set themselves about to subvert it to their own purposes. It was now strong, but its strength was turned against itself. Behind the shield raised against crime, crime itself was stationed with the sword of justice in its hand. Sitting in judgment, villains sold justice for money, or sent triumphant vice abroad in the livery of virtue. And now once more from an outraged community there went up a protest, low-whispered at the first, but gathering strength and volume as thought took on the form of words, and words merged into works, now a protest against wickedness in high places as hitherto it had been against vulgar vice. Again the time had come for an appeal to whatever may be the ultimate of a free people. *Salus populi suprema lex.*

It was a cunning contrivance, that by which the rascals voted themselves into office. Not that they

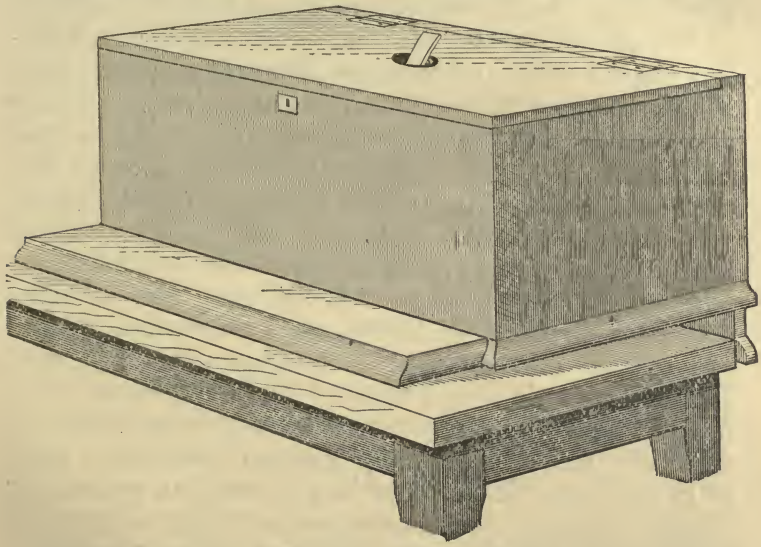
had but one method of circumventing honest men. There were more than can be told; more than will be ever known. One must indeed be wise to thread the intricate paths of primaries, to know the full power of money, of whiskey, of harlotry, and other hellish environment. Nevertheless it was a piece of creditable cunning, the stuffer's ballot-box, as they called it. In crime, as elsewhere, art follows closely the heels of industry.

Like the freshly shaved and newly white-shirted bully, rejoicing in a full stomach, a fine cigar, and fat prospects, seasoned with the hope of illicit gains, all was fair upon the outside, all was smiling and serene. Further than this, further, unhappily, than the bully comparison can be carried, all was fair upon the inside. It was a ballot-box, this new and reliable instrument for officer-making, a common vote-holder, to all appearances, of honest and homely plainness without and within. The evil of the machine lurked in the thin compass of sides and bottom.

One of them was found by the Vigilance Committee of 1856 and placed on exhibition at their rooms. It was the little voter-engine employed by the prize-fighter Yankee Sullivan while acting inspector of the first precinct election, and which made supervisor James P. Casey, of whom we shall know more presently. The box was about two feet long, fourteen inches wide, and a foot deep, and the outside was painted dark-blue. Round the bottom ran a neatly fitted moulding, connected with two inner slides, and constituting a false bottom and a false side. The lock, apparently an ordinary one, and worked in the usual way with a key, might also be sprung by a peculiar pressure on one side of the lid. About the middle of the cover was bored an auger-hole, which received the votes. The second or false bottom and side were neatly fitted to run in grooves inside the real side and bottom, so that when closed both the inside and outside possessed the appearance of a simple plain box. The

general construction of the engine was somewhat rough, which if anything assisted in deceiving the observer, who would never suspect dishonesty in mechanism so simple.

Let us now set the thing going and see how it works: Sullivan wants Casey elected, and Casey desires to place upon the bench a judge after his own heart, so that when he or any other gentleman wishes to kill some unreasonable citizen, or any worker silly enough to complain of reasonable bleeding at the



hands of the non-workers, no one shall be hurt for it. It is all in the family; the fraternity are to elect their ticket. Sheriffs, constables, and judges are all useful in their way; it is so much easier to do things according to law and order, to be respectable in one's villainy, and sleep well o' nights. Sullivan therefore takes a bundle of the tickets bearing the honored names of Casey, McGowan, Duane, and that class, and neatly folding them draws out the slide and fills with them the space between the true bottom and the false one. The side space is likewise stuffed; the slides are shoved

back to place, and nothing is seen of the mighty power-papers concealed by bottom and side, nothing but a plain honest ballot-box, inside and outside.

Now lock it. Give the key to the proper officer. As in their mighty sovereignty the citizens of this all-knowing republic draw near and deposit their votes, drop the tickets in at the auger-hole bored for that purpose, drop them in thankfully on behalf of those who every night on bended knees send up thanksgiving that their lot has been cast in a land where all men are free and equal, where the sacred right of suffrage is the inheritance of all, sedately sits Sullivan, keeping careful tally in his mind how the election goes. At the closing of the polls let the inspector fill the aperture in the top with wax, and let all the people witness it, for there must be perfect fairness in this election. Seal up the box and swear as to the contents.

Surely everything is correct now; surely all has been conducted in strict accordance with law. Jealous political opponents have watched that box all day, and half a score of them can swear that it was not opened or disturbed throughout the day, and that not a single ticket was put into it which was not fairly voted. The opposition to the imposition are sure their ticket is elected; Yankee Sullivan is sure it is not, or if it be now it will not be presently. Yankee coughs; the other inspectors turn their heads aside, when, unobserved, Yankee takes the box, fumbles it somewhat, draws out the magic bottom, turns the box over, and shoves back the slide. If he thinks this not sufficient, he does likewise to the magic side. The officer may now unlock the box; the judges may count the votes. It is very strange, the result of that election, to the single-hearted citizen watching for his country's good; to the initiated it is strange only that so simple a contrivance should have escaped the notice of liberty-lovers so long.

It was a trick exceedingly difficult to expose, even after it was known to be in common practice; and

had not the stuffers finally hurled themselves to destruction upon the points of their own passions the evil would have continued much longer. If from any cause the manœuvres of the stuffers failed them at the polls; if inspectors, judges, and clerks of elections were not of their appointing, and the voting in consequence was likely to be against them, as a last resort some desperado among them would seize the box, break it open, and destroy the ballots. The bully might be arrested, but there was nothing fearful in that; and at the new election, which of necessity must be ordered, the unholy brotherhood would awaken to a sharper sense of their duty.

The Committee finally took the ground that ballot-box stuffing was worse than murder; because on the purity of the ballot-box depended the purity of all law and government, of governors, legislators, judges, and jail-keepers. Pollute the spring, and the entire stream is polluted. Not that political criminals were ever punished by them as murderers, because they never would transcend with their power the punishment prescribed by law for offences.

A system of ballot-box stuffing then in vogue was exposed by the *Times and Transcript* in 1854. Besides the false bottom and sides of the box of 1856, there was contrived a machine by means of which the inspector, or person depositing the vote, by touching a spring which controlled the opening, could either admit the ticket into the box proper, or, if he did not like the looks of it, send it where it would never be counted. Another method was to install as receiver a sleight-of-hand artist, who, while closely watched by the voter, could without detection substitute a ticket of his own for the one voted.

At a charter election held on the 11th of April 1853 the polls in the first ward were held at the Bay Hotel, on Cunningham's wharf. Harry Meiggs was running for alderman, and carrying everything before him. One William Lewis, a waterman on Pacific

Wharf, thinking honest Harry was winning his election too easily, and without payment of the usual fees to laborers of his quality, trumped up a crowd of illegal voters for the opposing candidate, and delayed the polling as much as possible by challenging every man whom he supposed likely to vote for Meiggs. Finding that all these efforts were made in vain, and that Meiggs still had a large majority, Lewis stationed himself near the window, and when the inspector's back was turned thrust in his hand, seized the ballot-box, and threw it into the street, smashing it in pieces, and scattering the votes irrecoverably to the winds. Lewis was arrested and made to suffer the full penalty of the law for the display of his new method of defeating a candidate; but this was only after measures for reform had been inaugurated.

And at the same polls the year following, says the editor of the *Herald*, not as yet the open friend and supporters of the stuffers, the 8th of September 1854, just after the general election:

"The men who have control of the ballot-box in the first ward have defied law and precedent in refusing to allow any witnesses of their midnight count. They have carried things with a high hand, even if the affiants who swear on the holy evangelists that they saw them destroying the ballots and putting others in their stead are guilty of perjury. If they are not so guilty, if they have told the truth, the swift vengeance of an outraged people will be and should be visited upon the creatures who would thus dare to trample upon the sacred rights of freedom and pollute with sacrilegious hands the very fountains of American liberty. We say to the ruffians who have endeavored to take this election out of the hands of the people, who have been striving with bludgeon, dagger, and pistol to ride rough-shod over the people, that there is a feeling abroad that bodes danger to them. They are standing upon a volcano that may burst at any moment. The purity of the ballot-box will be preserved at any and all hazards, and if its assailants are exterminated in the struggle no tears will be shed by the honest and upright citizens of San Francisco."

Ballot-box stuffing began in San Francisco at an early day. On the 25th of September 1851 Francisco Sanchez and Arsenio Miramontes, native Californian citizens, and election inspectors of the eleventh precinct, profoundly shocked at the depravity of their

Anglo-Saxon associates in their profanation of what they deemed next to their religion a thing most sacred, filed in the county court an affidavit exposing a fraud perpetrated on that occasion.

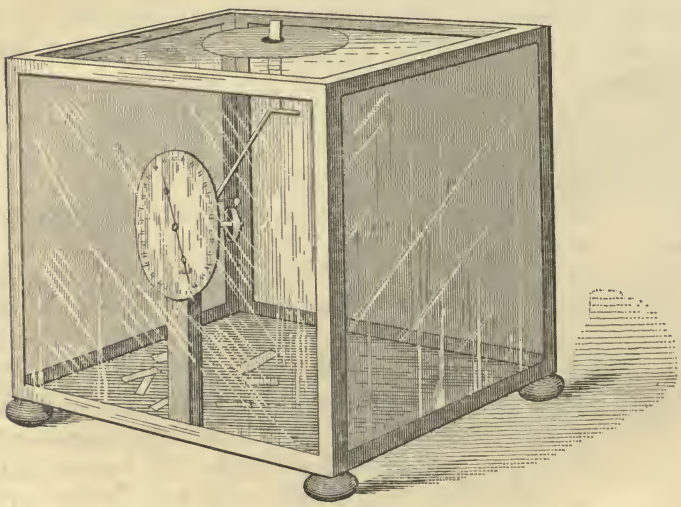
In the primary elections of June 1854 ruffianism was again dominant. Throughout the whole of election day fighting was kept up, with scarcely any intermission. In all the different wards rowdyism was rampant. Whiskey flowed like water, voters were hustled about by the villainous crowds that surrounded the polls, shots were fired, and in some places serious riots occurred. Human faces divine appeared before the recorder next day mashed into the shape of a squeezed orange. Says a journal of the day: "A lawless horde of brawling scamps are let loose to browbeat, to bully, to put in fraudulent votes, and to take the ballot-box if necessary, in order to suppress anything like legitimate popular sentiment; and in this way are chosen delegates to a convention that pretends to give us congressmen and state officers."

The sixth ward, its henchmen and strikers, was the most renowned precinct of vigilance times. That the importance of the positions of sixth-ward inspector and judge of election may be understood, the reader should know that as returns were then made, there was no time fixed within which to declare them. Hence certain wards were kept open, the last usually being the sixth, until the votes of all the others were known, when whatever tickets were lacking to secure the election of the stuffer's candidate would be thrown into this ballot-box and counted out from it. In this way they might carry San Francisco as the Persians carried Athens, by dead-weight alone; but they could not so carry the San Franciscans.

At the elections which followed the vigilance reform numerous ballot-boxes made or patented by ingenious contrivers were presented. Some were of glass and some of wire. One of the latter was claimed to be bullet, brick-bat, and burglar proof. It was six inches

wide, six inches deep, and twelve inches long, and the wires were so woven that great strength was united with openness, it being impossible for a ballot to find its way into the box without detection.

A ballot-box of glass was patented by a San Francisco optician. It was of heavy French-plate, about fourteen inches square, the edges and seams closed with brass mouldings. Through a small hole in the circular brass plate fitted into the top the ticket was thrust, and as it passed in it touched a spring which struck a small bell and turned the hands of a dial.



The bell and dial were both within the box, so that they could not be tampered with. The dial could be arranged so as to count five thousand. This famous box was finally sold for five hundred dollars and sent to the interior for exhibition.

There was a mass meeting held before the Oriental Hotel the 15th of June 1856, Balie Peyton presiding, at which a bully's ballot-box, captured at Woolly Kearney's house, was exhibited as orator of the occasion. It was there stated that at a late election in

San Mateo County fifteen hundred votes had been returned from three precincts where there were but three hundred voters in all; five hundred votes were returned from Crystal Springs, where were then not more than thirty voters.

At a meeting of the Executive Committee the 28th of August, Mr William Arrington was authorized to dispose of a patent ballot-box which had come into their possession to Captain Gough on such terms as he might deem proper. Failing in his first attempted negotiation, at a subsequent meeting Mr Arrington was authorized to accept for the box five hundred dollars in cash, Captain Gough's note for five hundred dollars, payable in fifteen days, and three thousand dollars contingent on the successful exhibition of the box. The sale was consummated on these terms.

From time to time the ballot-box in San Francisco was improved, until in 1878 it reached a state of supposed perfection. All the four faces were made of glass, the whole upper surface comprising the lid, with hinges and lock. Another style had a circular lid three inches in diameter, in the centre of the cover, the key working perpendicularly.

With such a state of things it was clear that reformation in the regular and legitimate way was wholly out of the question. Attempts to purify society through the citizens' right of suffrage was applying to politics the Rosicrucian method of greasing the weapon while binding the wound. Corruption propagated. Rascality bred rascality, and the reign of crime seemed self-perpetuating. The uniform defeat resulting from continued effort discouraged many, who argued that without stepping beyond the forms of law the laws could not be enforced, and finding the most earnest leaders not ready to sanction such a course, became indifferent, or with little regret saw matters drifting from bad to worse, feeling that the result which they

had predicted as inevitable would all the sooner become apparent.

Public feeling became vitiated, and the standard of public opinion sank low. In the newspaper press throughout the state there appeared an appetite for scandal and personalities. Abusive articles found the readiest readers, and a thirst for bloodshed, the fruit of long indulgence, seemed fastened upon certain portions of the community. Club-law had become an institution of the country; criminal courts were a sham. Street-fights were enjoyed with the keenest relish in the cities, and throughout the country mob trials and executions were glorious excitement. Pugilistic encounters were announced in the journals of the day. Likewise notice, either verbal or in the newspapers, would be given of a fist-fight to come off at a certain time, and crowds would collect on Montgomery street to see the fun. Ancient enemies with concealed bowie-knife and revolver prowled the streets, and on coming together an undeclared battle of pure self-defence on both sides would immediately begin. A ruffian detected in the commission of a crime would run for a policeman for protection against the people. In those days there was joy in tribulation to every murderer fortunate enough to find sanctuary in a prison, where angel keepers were his guard and official ravens fed him.

Amidst such a state of things it is easy to understand how summary punishment for crime should grow in favor in the cities as well as throughout the country. It would be unfair, however, to cast the blame of this gross laxity entirely upon the courts. Here again the people themselves were at fault. Even if the judges did their best, which was often the case, the juries would not convict. The sentiment against killing in fair fight, or in what might by legal twists be called self-defence, was not yet so strong but that the defendant's counsel could easily find some on every jury who would absolutely refuse to join in

a verdict against a murderer. Further than this, these very jurymen, many of them, whom it was so easy for a skilful lawyer to persuade against duty and conscience in a court of law, joined committees of vigilance and became active supporters of extreme punishment. Thus the very system which we so sacredly regard as the bulwark of all our rights, then as now, acted against justice and as the friend of thieves and murderers.

When transplanted to the distant and virgin soil of California, the evils of our political system, like rank weeds, shot upward into the sunlight more conspicuously perhaps than in the older states. At all events, nowhere has been the curse of overmuch voting more manifest than here. There is no greater despotism than that which springs from excess of liberty; no greater weakness than the strength of strong minds bound with the sand-ropes of universal suffrage. Nowhere do we find the moral tone of the nation lower than among those who, without having at heart or at hand a single object of a public or of a personally disinterested character, shout loudest at elections and vaunt their patriotism for pap.

Among others, there was this difference in the elements which caused the social disruption of 1851 and that of 1856. With the emigrants who flocked in multitudes to the state immediately after the adoption in 1850 of the state constitution, and who were mostly well meaning, industrious men and virtuous women, were certain vile persons, who soon became active in gathering gold by dishonest means and in the general derangement of society. Growing bold, they organized and overran the city and country, waging open war and increasing in villainy until the people to save themselves were obliged to put their venomous companions down. More intelligent, and hence more crafty, were those who stirred the storm of 1856. Loaded dice, waxed cards, burglary, and arson were now held in light esteem as puerile and vulgar. There

was a field open on these shores for skilled labor, for men of parts, men full-grown in iniquity, and this field was politics. Neglected by the virtuous, public affairs fell into the hands of the vicious. This impudent assumption of political power by foreign cutthroats is the irony of our boasted institutions, the keenest they have ever experienced. Now, said the happy harpies, once in office, if law is what the people of California want we will give it them. Fixing their attention, first upon primaries, then upon double-slide ballot-boxes, after a series of successful tricks in political legerdemain the reptiles were enabled to revel in public plunder. The second cataplasm was applied to a superior order of villainy, consummated by a superior order of villains.

Often in the history of governments have popular movements against existing authority resulted in a despotism far more crushing than that which was overthrown. Therefore it was necessary to be cautious. Defeat would bring the worst results. The politicians of the day were essentially fighting men. A revolver and a bowie-knife were as necessary to them as a rule and handsaw to a carpenter. Deadly weapons were their strongest arguments, with which they were enabled to enforce their principles more effectually than with either tongue or pen. Their bullying propensities frequently obtained them office when all other means failed. Rectitude of character they had none, and their reputation was of such a flimsy texture that they did not even attempt to patch it. So long as their weapons were kept keen and bright, little to them mattered the tarnishment of honor. Yet never men so boasted a quality of which they were deficient. Like steamboat runners employed to bellow the merits of opposition boats, they talked loudly and made many converts, particularly of that class which like themselves hung about saloons, and were a standing conundrum to workingmen as to their method of obtaining food and shelter.

Base-minded and cowardly, as all bullies are, they dare not mingle and hold converse with their fellow-men, except with one hand on a loaded revolver.

On the evening of September 16th the Vigilance Committee of 1851 in full session adopted a resolution suspending their meetings indefinitely. They did not disband or disorganize; they merely rested in order to give the law an opportunity to vindicate its supremacy should it be able to do so. Before passing this final resolution, an executive committee of forty-five members was appointed, not for the purpose of arresting or punishing criminals, or of encouraging antagonism to lawfully constituted authorities, but to keep up the organization and be ready in case of necessity. They were to remain in force for six months, with power to call together the committee of the whole at any moment; they were to hold correspondence with other associations throughout the coast, and to assist the police in ferreting crime and bringing criminals to justice. Thus was the purity of their past actions proved, and the nobleness of their character throughout all time established.

Besides the time taken from their business, the members of the Committee had been called upon for considerable sums of money, which they cheerfully contributed. About thirty persons had been sent back to Sydney at a heavy expense, and one to Panamá. Agents of the Committee who were actively employed in hunting crime throughout various parts of the country required money. Many criminals became frightened and fled. Some, said to have in their possession a large amount of stolen jewelry, were secreted in the southern part of the state. They succeeded in escaping in an outward-bound vessel, and a party of vigilants were sent in pursuit, but did not succeed in overtaking the ship. Some went east, others to Europe, and no small number joined the filibustering expedition of William Walker, and

so saved the public executioners of California much trouble.

With the beginning of 1852 crime grew a little bolder, six or eight daring robberies being committed in as many weeks by apparently the same persons. Evidently new gangs were being formed, but the authorities, grown more efficient under the teachings of the popular tribunal, were thought now to be a match for the rascals. At all events, the citizens were willing to grant them an opportunity to do their duty. But as crime crawled forth again, the Committee found it necessary to hold a general meeting on the evening of March 17th, at which there were present about three hundred and fifty members. A new executive committee was chosen, and arrangements were made to hold regular meetings. Again there was a visible and sudden falling-off in the number of burglaries and murders committed. By June the decrease of crime in San Francisco was a subject of general remark. San Francisco was then as quiet and orderly as any eastern city of equal size.

Society in the interior continued in an unquiet state, and it was thought it might become necessary to organize a state committee upon a principle similar to that of the San Francisco Committee, which should effectually clear the country of footpads, highwaymen, and like desperate vermin. Two immediate causes contributed to these present troubles in the interior; one, the fact that all the larger towns and cities of the state had lately been cleansed of their criminals by their respective committees of vigilance, to the disadvantage of the smaller towns and of miners and farmers, and the other that as popular tribunals subsided desperadoes took courage and put on boldness.

The Committee of 1851 still showed signs of life by advertising, through the winter months of 1852–3, a reward of two thousand dollars for the arrest, with sufficient testimony for conviction, of any person set-

ting fire to any building in San Francisco, at the same time calling on the people to furnish them such information as would lead to the arrest of any person guilty of arson, burglary, or highway robbery. These notices were signed by Selim E. Woodworth, president, and Isaac Bluxome, junior, secretary.

Like a dismal shadow the doings of the first Committee haunted for a time the memory of evil-doers, until, amidst the activities of new opportunities, which in this rapidly revolving society met them at every turn, the unhappy strangulations of by-gone days gradually assumed less substantial form, and finally faded, in effect at least, to the texture of a half remembered dream.

Not so appeared the solemn teachings of the opaque past to those who sought to do well. The terrible enginery of former necessities, which was likewise a cloud in their memory, spoke to them only of the sure and permanent destruction of crime; and political leaders who sought power and profit by infamous means, might have read their own doom in the signs of the times.

There were those in the first Committee who refused to join the second, on the ground that the former was a necessity which five years later did not exist. Likewise there were those who had opposed the first Committee from conscientious scruples, who joined the second; those whom temperament and education had so wedded to the sacred statutes of justice that they found it impossible all at once to cast themselves adrift and join the profane throng, but who had been steadily driven toward the conviction that there was no help for it, that the banded bad men had so securely intrenched themselves behind the forms of law that nothing but force could dislodge them, that nothing would cure the evil but hanging. For like the giant Antæos, as long as their feet touched earth no Hercules could crush them.

In all these pictures of early days, which I mean shall be truthful and not overdrawn, I wish it clearly understood that if comparison be made, I do not regard men, society, the times, and political affairs as worse then than now. They were different: worse in some respects, better in others. In regard to morals, vice was less shamefaced in 1852, but from laxity in religion and a more general freedom of thought, immorality was easy in 1882. Criminal court trials are every whit as much a farce now as when the right honorable Ned McGowan sat upon the bench dispensing justice with a cigar in his mouth, his hat cocked on one side, and his feet elevated to a level with his head. There was more political corruption thirty years after the organization of the government than three years afterward. What can there be more dishonest and disgraceful than the wholesale bribery of legislators by the railroad monopolists, than the bribery of the county assessor by the bankers, than the bribery of boards of supervisors and boards of education, so common throughout the country? While dwelling upon the iniquity of others do not let us forget our own.

A bribery case arose in the legislature of 1854 which to the more experienced politicians of a quarter-century later appears unnecessarily noisy. Mr Peck, senator from Butte, accused Mr Palmer of the politico-banking firm of Palmer, Cook, and Company, of offering him five thousand dollars for his vote on the senatorial question. Mr Palmer denied the charge, and affirmed that Mr Peck offered to sell him his vote for five thousand dollars. The senate took the matter up, and after much flaunting of soiled virtue concluded that no one was to blame; no one swore falsely, or offered to give or take a bribe. We do these things better now. And yet, like the clothes that cover shame, our immoralities may be rendered all the more conspicuous by the paraphernalia which we employ to hide them. Where, among all our honorable politicians

and wealth-hoarding magnates, do we find one who in the manner of his elevation deals with those at whose expense he achieves ignoble fame as did the Alcmæonidæ in building the temple of Apollo, substituting Parian marble for the cheap common stone contracted for?

CHAPTER II.

ASSASSINATION.

> Law supports those crimes they checked before,
> And executions now affright no more.
>
> *Creech.*

The pressure of sin upon society, the dead weight of tyranny, whether that of a feudal baron or of a nineteenth-century monopolist, if long continued is sure to result in the destruction of the destroyer. Brittle as well as viscous substances flow under sufficient pressure; lead and ice in large masses flow under pressure of their own weight; so melt the grinding glaciers of society under the dead weight of their own iniquities.

In the midst of these ill-tempered times, when official and financial corruption seemed rankest in young San Francisco, James King of William, a ruined banker, but a man of unimpeachable integrity, began the publication of a daily newspaper, which he called the *Evening Bulletin*.

Mr King was born at Georgetown, in the District of Columbia, in January 1822, and was therefore at this time about thirty-four years of age. Rather below medium height, with a dark complexion, large dark eyes, aquiline nose, black bushy whiskers, a well shaped head set on slightly stooping shoulders, he was a man of keen intellectual perceptions, though not very robust. His father was an Irishman named William, and following a custom once somewhat common among his people, in order to distinguish himself from other James Kings, he wrote his name

James King of William. His younger days were associated with the post-office department and the banking-house of Corcoran and Riggs in Washington. In 1848 he started for Oregon by water, partly for health and partly for trading adventures; but arrested in his voyage by the attractions of California, he took up his residence at Sacramento. There he assisted in the organization of a government, and also engaged in mining. In 1849 he opened a banking-house in San Francisco, but losing heavily in Tuolumne County investments in 1853–4, he closed his office. In legitimate banking he had acquired a moderate fortune, but when he failed he kept nothing from his creditors, and even refused to avail himself of the insolvent act. Many stood ready to assist him, but he had a constitutional shrinking from obligation to or dependence on others; and as I. C. Woods, the managing partner of Adams and Company, proposed to take his business and assets, and assume his banking liabilities, provided he would agree to take charge of one of the departments of Adams and Company and manage it for two years at a salary of one thousand dollars a month, he concluded to accept the position, and filled it until the failure of that firm, in February 1855.

His quickness of comprehension and habits of systematic detail soon convinced him that the mammoth express and banking firm was insolvent, and so he informed the manager, but was only ridiculed for his pains. The failure of the banks, beginning with Page, Bacon, and Company, threw Mr King out of employment; hence, partly, he conceived the newspaper project. In his days of prosperity he had assisted in establishing and sustaining, among other newspapers, the *Herald*, which under the trenchant editorial pen of Mr John Nugent, formerly a lawyer of some repute, had at one time rendered valuable service in protecting the community from the dishonesty of officials, and preserving vigorous and watchful public opinion. But at the time of the establishing of the

Bulletin many influences had combined to enfeeble the power of the press, to lessen the interests of its managers in good government, and to weaken the general confidence in their desire for the restoration of purity and integrity in the management of public affairs. Believing that he could provide a modest support for his family, and at the same time render good public service, he borrowed a small sum and began the publication of his paper, notwithstanding there were then in San Francisco not less than a dozen journals struggling for life.

It was a small sheet, with small resources, and its publication office was a small building standing in the street instead of beside it, a significant fact when joined to its other anomalies. This grain of mustard-seed, however, soon spread out and filled the whole coast. Ignoring for two reasons the tricks and hypocrisies of journalism, because first he would not practise them, and because secondly he did not know how, his chief concern in his stipulation with his publisher, C. O. Gerberding, seemed to be for his own absolute control of the journal's columns, so that those he was about to punish might not buy a controlling interest in the sheet, and so silence its calls for reform.

The first number was issued the 8th of October 1855. It was clear enough from the beginning that the purpose of the editor, aside from pecuniary considerations in entering the arena of journalism, was, first, the righting of personal wrongs growing out of the late financial troubles, and, secondly, war on wrongs in general.

Mr King began his brief career as a journalist with a modest, frank simplicity, freely expressing his inexperience, and somewhat astonishing his practised competitors by making haste to acknowledge mistakes, and to offer self-respecting but ample apologies to those about whom he had unwittingly made misstatements. He did not know the difference between editorial and personal lying. He was ignorant of saying one thing

while meaning another. He was too simple even to study the policy most profitable to his paper, and call it public weal. He never thought at every step to look behind to ascertain if the dear people were following; and strangest of all, he forgot to fill his columns with journalistic quarrels, which, however interesting to the editor, are of very small moment to the public. He would be a reformer, an honest and ardent one, and he believed he could establish a journal with which, by constant exposures of the schemes of bad men, and continual attempts to concentrate the efforts of good men, the conspirators would be defeated.

He evidently entertained few practical ideas regarding his new undertaking, and seems never to have troubled himself over the question of his capability as a writer. He had something to say, and he was quite sure he could say it. He could speak to more people, and more to the point, by means of the printing-press than by any other means: so he published a newspaper. United with honest faith in the good intentions of the masses, Mr King was endowed with a shrewd capacity to awaken interest and secure confidence. His editorials carried with them the conviction that the writer was a man of character, and that of a high standard; that a love of justice pervaded every fibre of his nature, and that it was welcome duty to administer merited rebuke to every one who accepted public trust and betrayed it.

His style was unstudied, almost homely and colloquial, but pierced to the pith of his subject with surprising directness and vigor. Indeed he cared little for style or diction. He indulged neither in the bombast of Æschylus nor the sophistry of Euripides, and Aristophanes would hardly have praised him for his skill in satire, though some of his contemporaries were quite ready to do so. All this, however, or any species of criticism that might truthfully be brought against him, went for nothing. The simple truth was

strong enough for him, as indeed it is always the mightiest power of the strongest. Laying it on vigorously, constantly, he proved himself a scourging writer. Most persistently and most effectually did he battle against personal and public enemies from the beginning of his career as a journalist to the day when he fell, a victim sacrificed upon the altar of an outraged commonwealth. Naturally this course aroused the enmity of the office-holders, who were amazed at his temerity, and to whom his motives were in a measure incomprehensible.

Frequently was he threatened by personal enemies and political cutthroats, and again and again was he warned by his friends that sooner or later his life would pay the penalty of his temerity. Yet steadily and fearlessly he continued his course; and that at a time when, among the class most severely castigated, a bullet was the usual answer to an insult.

While clerk with Adams and Company he had become familiar with the finer phases of financial and political rascality which his nature abhorred, and which he now exposed with merciless severity. The notorious politico-banking firm of Palmer, Cook, and Company was then at the height of its power and of its apparent prosperity. This institution the *Bulletin* at once attacked, charging it with corruption, bribery, and financial unsoundness, exposing its secrets with such clearness and intimate knowledge of its affairs as made men wonder how the editor obtained them. The battle was continued with unflinching persistency day after day for many months, until the firm was ruined, and consequently harmless. Broderick, Billy Mulligan, Woolly Kearny, Casey, Cora, Yankee Sullivan, Martin Gallagher, Tom Cunningham, Ned McGowan, Charles Duane, and all that class of shoulder-striking, ballot-box stuffing politicians, together with gamblers, prostitutes, and pimps of every shade, rich and vulgar alike, but more particularly those who had made themselves conspicuous in public affairs, he tore in

pieces with almost savage ferocity. Likewise he scattered thorns upon the bench of criminal judges, and made derelict officials drink gall. To lawyers who lived by defeating justice, and to all who polluted the springs of virtue and preyed upon industry and public morals, he was a thorn in the flesh. Opposition and danger only roused him to bolder efforts. Each day his shafts were launched at some new infamy; each day his pen, like the white plume of Navarre, flew along the topmost billows of the fight.

Juvenal, in his denunciations of venal Rome, with her refined and hypocritical people, high in culture but low in morals, was not more earnest, honest, or successful. Parasites of the government flaunting in the fruits of extortion, insolent Crispinus or ostentatious Matho in the hands of the scathing satirist, were not more severely rebuked. His courage was of a quality touching desperation. He acted like a man having nothing to lose. Fortune was gone, and disgust had taken the place of business ambition. It was understood from the outset of his journalistic career that neither he nor his organ was for sale. It was understood that he would not fight a duel, that he feared no libel suits, though on this account he was none the less careful of his facts. Bold, resolute, desperate, his editorials often bordered on the scurrilous, but they were ever on the side of virtue and honesty.

Unfortunately we are none of us wholly free from the bias of temperament, education, and environment. Like most reformers, Mr King approached the morbid where his cause was concerned. He seemed to regard all lawyers, judges, and officials alike as evil-minded enemies of the public. This has never been true in any epoch of California's history. On the contrary, whatever may be said of laxity in public morals and corruption in high places, there never has been a time when a majority, not only of the masses, but of those who lived by the law, were not in favor of right and

morality. This fact, in our analysis of an abnormal or distempered epoch, should never be lost sight of. The Vigilance Committee sought the right; the law and order party sought the right; the difference was, the former were practical and clear-sighted, while the latter were blinded by overmuch learning, by bigotry, and by their private interests. Some were inherently and irrecoverably bad; but these were always in the minority. One animal of evil odor can make fetid the atmosphere surrounding a thousand flowers; so one bad man can bring offence upon many good men.

"Bets are now offered, we have been told," writes Mr King November 22, 1855, "that the editor of the *Bulletin* will not be in existence twenty days longer, and the case of Dr Hogan, of the Vicksburg paper, who was murdered by the gamblers of that place, is cited as a warning. Pah! We passed unscathed through worse scenes than the present at Sutter Fort in '48. War, then, is the cry, is it? War between the prostitutes and gamblers on one side, and the virtuous and respectable on the other! War to the knife, and the knife to the hilt! Be it so, then! Gamblers of San Francisco, you have made your election, and we are ready on our side for the issue!"

One Selover, of the fraternity, denied the privilege of the duel which he professed to desire, threatened darker measures. On the 6th of December Mr King says: "Mr Selover, it is said, carries a knife. We carry a pistol. We hope neither will be required, but if this rencontre cannot be avoided, why will Mr Selover persist in perilling the lives of others? We pass every afternoon, about half-past four to five o'clock, along Market street from Fourth to Fifth street. The road is wide and not so much frequented as those streets farther in town. If we are to be shot or cut to pieces, for heaven's sake let it be done there. Others will not be injured, and in case we fall our house is but a few hundred yards beyond, and the cemetery not much farther." And again, the 5th of

January: "If these fellows are really determined to attack the editor of the *Bulletin*, why don't they do it at once and be done with it? Why keep everybody in suspense? Here we have been carrying a pistol for nearly three months because of the braggadocio bullying of this crowd, until we are heartily tired of it. We don't want to carry weapons. If the fuss must come off, let it come at once and be over." Of a truth this pistol of Mr King's, like the famous gray steel sword of Kol, was more fatal to the owner than to any one else.

About this time, namely, on the 17th of November 1855, there had been murdered a prominent citizen in open day upon a public thoroughfare in San Francisco, and yet the murderer remained unpunished. Indeed he did not expect punishment. Between William H. Richardson, United States marshal, and Charles Cora, an Italian gambler, there had been some difficulty. Friends interfered to reconcile them, and all differences, as it was thought, were amicably adjusted. About half-past six o'clock on the evening of the day above named Richardson and Cora were seen in front of McAllister's building on Clay street, below Montgomery. They had just come from the Blue Wing saloon on Montgomery street, near Clay. One standing near them heard Richardson remark, "Well, is it all right?" "Yes," Cora replied. Continuing their conversation in a low tone for a short time, suddenly Cora with his left hand seized Richardson by the collar of his coat, and with the right drew from his pocket a derringer. "What are you going to do?" cried Richardson; "don't shoot, I am unarmed!" Scarcely were the words uttered before the ball from Cora's pistol had penetrated the officer's breast. The Italian held his victim up for perhaps a minute, until convinced that the wound was fatal, when he let the body drop.

So suddenly fell the blow that the witnesses for a moment were paralyzed. Cora turned from his victim,

but before he had proceeded far he was arrested and hurried away to the station-house. Richardson was taken to Keith's drug store, corner of Montgomery and Clay streets, where he almost immediately expired. Meanwhile an immense and fearfully excited crowd had gathered in the vicinity, completely blocking the streets for two squares. Cries of "Hang him! hang him!" were heard on every side. Several addressed the assemblage, urging the immediate execution of the murderer, and on putting it to a vote a storm of 'ays' and 'noes' followed. Though burning with indignation at the dastardly deed, there were many in San Francisco to whom arbitrary punishment was unknown, and to others it was most distasteful; besides, Cora had friends to swell the volume of 'noes.' All evil-doers were his friends.

In perfect peace, as if encircled in the arms of his mistress, Charles Cora nestled in the bosom of the law. While there he was safe, and manifested the utmost coolness; but when for his greater safety from the mob he was transferred from the station-house to the jail, he grew anxious, and glanced nervously behind to see if avengers were at his heels. During the evening of the day of the murder the excitement continued, and the propriety of an immediate and summary execution was openly discussed. The bells of the several engine-houses were rung, which seemed to presage hanging; it was rumored that the Vigilance Committee were in session, that rope and beam were ready, and that an attack on the jail would soon be made. The sheriff being absent at the time, his deputy, fearful of an attempt to seize the prisoner, secretly sent him to the suburbs of the city, heavily ironed. The sheriff returning shortly, ordered him brought back to the jail, over which he placed a strong guard. At the Oriental Hotel Samuel Brannan addressed the people, urging the immediate execution of Cora. It was said also that he had procured the ringing of the bells, but this he denied. He was arrested by the sheriff for dis-

orderly conduct and inciting a riot. A large crowd followed him to the station-house, threatening once or twice to rescue him. Arrived at the police office he was immediately released on his own recognizance. Toward morning the excitement died away, and the people dispersed to their homes. Cora was examined by the authorities and held for trial.

It was said that the cause, though not the immediate occasion, of the shooting of Richardson was natural indignation resulting from the offensive demeanor while at the theatre toward Mrs Richardson of Belle Cora, a notorious prostitute by whom Cora was supported, and who honored him by assuming his name. To my mind the dispute speaks little better for the wife than for the mistress, as no lady, be the circumstances what they might, would quarrel with a prostitute at a theatre, and no prostitute would insult a lady who gave her no opportunity.

The feeling awakened by this assassination, following as it did a long list of unpunished outrages, was not allayed by another brutal murder committed at the Mission a week after, plunder being the incentive. There were many calls for a vigilance committee at that time; but the very men who six months afterward were driven to this ultimate resort, now made their influence felt against such a remedy. In the Richardson case they successfully argued that as the victim was a prominent federal officer, the murderer one of a class of vultures against whom public opinion was being aroused, and the crime one attended with atrocious coolness, the probabilities were strong that the courts would administer justice.

At this time Mr King wrote vigorously in the *Bulletin* advocating dependence on the law, asserting with good cause the implicit confidence universally felt in the integrity of Judge Norton and Judge Hager, before one of whom the case would probably be tried, and expressing his personal hope and belief that the day had passed when resort to arbitrary

measures should be necessary to secure justice in San Francisco. Neverthless his language was plain enough as to what should be done in case of further trifling with justice.

"Hang Billy Mulligan!" he cries. "That's the word! If Mr Sheriff Scannell does not remove Billy Mulligan from his present post as keeper of the county jail, and Mulligan lets Cora escape, hang Billy Mulligan, and if necessary to get rid of the sheriff, hang him—hang the sheriff! Strong measures are now required to have justice done in this case of Cora. Citizens of San Francisco! what means this feeling so prevalent in our city that this dastardly assassin will escape the vengeance of the law? Oh heavens! what a mortification to every lover of decency and order, in and out of San Francisco, to think that the sheriff of this county is an ex-keeper of a gambling hell; his deputy, who acts as keeper of the county jail, is the notorious Billy Mulligan, and a late deputy, Burns, the late capper at a string-game table! Merchants of San Francisco, mechanics, bankers, honest men of every calling, hang your heads in very shame for the disgrace now resting on the city you have built!"

While deprecating the necessity for it, people began to talk of the reorganization of the Vigilance Committee, but Mr King was not in favor of it. The offices of judges and jailer were filled by the tools of cutthroats who unblushingly plied their traffic upon the most public thoroughfares in open day, and then bet two to one that they would escape punishment. Abroad emigration was checked by the prevailing idea of villainy and corruption in every avenue of society, and at home respectable men felt it a duty to their families to quit the country rather than expose their children to the vice and iniquity that so unblushingly stalked the streets.

When Richardson was shot by Cora, "Who will be the next victim?" people asked. The jailer was the

special friend and crony of the murderer. What a farce! "If the jury that tries Cora is packed, hang the sheriff!" exclaims one. "Mark my words," says another, "Charles Cora, if left to be tried by the legal tribunals, will be let loose upon the community to assassinate his third victim." All good citizens, and most assuredly all evil-minded ones, hoped the time had passed when the necessity of vigilance committees existed, yet the former were ready to resort to that or any other means which should assure them safety, peace, and good government.

Several months elapsed before the case of Cora was brought to trial; meanwhile a man named McDuffie was appointed to the vacant post of United States marshal. This person, in connection with a partner named Van Read, had accumulated a fortune by conducting gambling hells in Marysville, at the tables of which Cora had served; and when it was found that Van Read was actively engaged in efforts to clear Cora, the public thought there might be some foundation for the assertion that one gambler had murdered the marshal to enable another gambler to secure his place. Deep indignation, moreover, was felt at finding that the influence of the fraternity had extended even to Washington, and had seduced Senator Weller to abuse the confidence of the president of the United States by inducing him to make an appointment which thus appeared to further such a conspiracy.

When Cora was brought to trial it was found that the subscriptions of his fellow-gamblers and the lavish liberality of his paramour had not only secured a brilliant array of lawyers, but had hired and drilled a number of witnesses to testify that the marshal was about to kill the gambler when the gambler killed the marshal. James Casey, of whom more hereafter, spent money freely to clear Cora. And although the district attorney succeeded in demonstrating the perjury of some of the witnesses,

and several of the by-standers who had been summoned testified in the clearest manner that they saw both of Richardson's hands at the instant of the shooting hanging by his side empty, some of the jury, confused by the pleas of the lawyers, or influenced by the solid arguments poured from the prostitute's purse, refused to join in the verdict of murder in the first degree. Four months were then suffered to elapse without indication on the part of the authorities that another trial was about to be held; and the rumor that several of the witnesses for the prosecution had been bribed to leave the state, and that the next trial would result in the criminal's escape for lack of evidence, might perhaps have been verified by the result had not succeeding events aroused the people to administer justice without the intervention of lawyers and without the formal assistance of officers under whose manipulations criminals who could command money or political influence rarely or never suffered the penalties the laws provided.

James A. McDougall, afterward United States senator, was counsel for Cora. To say that he did not know his client to be guilty impeaches his intelligence; to say that knowing it he attempted to clear and loosen the bloodhound impeaches the integrity of the judicial system under which he practised.

A month after the occurrence the excitement which had well nigh called into action the old Vigilance Committee had died away, and an apparent apathy upon the subject seemed to have befallen the public mind. But this in reality was not the case. There was yet in this community a healthy determined sentiment regarding the public good. If the properly constituted authorities would punish crime, that was sufficient; if not, crime should not go unpunished. "The people of this city," writes Mr King the 12th of December, "are not in favor of taking the law into their own hands if justice can be done in the courts; and no class of men can be found in this com-

munity more in favor of law and order than the members of the old Vigilance Committee. But if the courts were to relapse into the former farcical apologies we had, it would require but a few hours to again call into action the same body of men, with the addition of, as before, the best business men of the city as members and co-workers."

With remarkable vigor and persistency Mr King continued the war. Evil-doers were ruthlessly hunted down and their misdeeds exposed, until the *Bulletin* editor was more hated and feared than all the emissaries of Satan. His strictures were not always just or judicious, but on the whole his influence was most beneficial. He dared to do and did what others scarcely dared to think. It was no groundless fear, this of his friends that he would be shot; but like a hero-martyr as he was, James King threw up his life at the beginning of the battle. He saw the city steeped in corruption, reeking in vice, groaning under burdens imposed by gambling officials, a reproach at home and a byword abroad. Yet he believed there were not wanting the ten men that should save it. He determined to break up the iniquitous nest of political pimps and murderous demagogues which infected the place, and he did it.

The storm which had been so long brewing at length burst with a fury little expected even by those who had invoked it. Among other infelicities of the day there was no little wrangling over the selection of custom-house servants, incident to the appointment of a new collector. In the *Bulletin* of the 9th of May 1856 was printed an article by a correspondent who signed himself "A Purifier," in which the name of one Bagley was mentioned as a person unfit for a certain coveted position, he having been indicted at one time for attempting the life of James Casey, a prominent politician, and proprietor of the *Sunday Times*.

On the 11th of May a communication appeared in

Mr Casey's paper, over the signature "Calaban." After accusing the *Bulletin* of inconsistency in condemning certain appointments of the governor and of the president, and praising certain others made by the collector of the port, the writer says: "Now, Mr Editor, the question arises, whence this great and monstrous sympathy for Mr Latham? I will tell you. Mr King, James King of William, has a brother who holds a lucrative position in the custom-house, under Mr Latham, and this brother is one of the proprietors of that consistent, courageous, independent, and immaculate sheet, the *Bulletin; hinc illæ lachrymæ.*

"Another point to which I wish to call the attention of your readers is this: the brother I allude to was an applicant for the office of United States marshal for California at the same time with Mr McDuffie. Is it not possible, ay, even probable, that the bitter, unrelenting, and malicious prosecution of that gentleman by the editor of the *Bulletin* was instigated by motives of revenge for the defeat of his brother, who I say is a large share-holder in the *Bulletin?*"

Thomas King, though heartily sympathizing with his brother and giving him his earnest support, was a very different kind of a man. Coarse, illiterate, and common in mind and manners, he carried about him that same vindictive energy which characterized his brother James, with this difference: James King's hatred of sinners sprang from a hatred of sin, and was sanctified by the noble purpose of cleansing society; and this because he loved purity and justice and abhorred vice. Thomas King hated on general principles. Had Casey been his brother he would have hated James King as heartily as he now hated Casey. That he was on the right side was owing to accident. Without being a very bad man or a very good one, he was full of explosive material which, like the paper cannon the Chinese make for our Fourth of July, was ready when ignited to burst out on its

weakest side. The expansive force of his passions was as likely to drive him downward as upward.

In the advertising columns of the *Herald* of Tuesday morning the 13th of May was the following card:

"A communication appeared in the *Sunday Times* of the 11th instant stating that I was an applicant for the office of United States marshal. I have called several times to-day at the office of Mr Casey, the proprieter of the *Times*, to get from him the name of the author, which Mr Casey promised to make known after first having an interview with him. At the hour appointed to-night by Mr Casey I called, but was unable to find him. Until I receive the name of the author, I wish simply to say that I never applied nor thought of applying for the office of United States marshal.

"*San Francisco, May 12, 1856.* THOMAS S. KING."

Thus it appears that Thomas King called on Casey for the authorship of the article, which Casey refused to give. "The writer is an old man," said Casey, "a man of peaceable habits, and rather than that he should suffer I will be responsible." Very kind of Casey. Tuesday morning King met Casey on Montgomery street, and again demanded the author's name.

"I will not give it you," said Casey.

"I will give you till ten o'clock to-morrow; if you do not reveal to me his name by that time you shall stand the consequences," said King.

"My mind is made up. I do not want ten minutes; I will not give it you!" replied Casey.

Next day, Wednesday, King sought Casey and found him, but made no demonstration of hostilities. He had promised his brother that he would not attack him; their weapon must be the pen, and in the hand of the reformer blows from it should fall heavier than those of a slung-shot.

Several months previous some of Casey's political opponents, of the same quality as himself, who knew somewhat of his antecedents, had sent east and obtained a certified copy of his conviction in New York for robbery, and his subsequent imprisonment at Sing Sing. This was shrewdly passed over to the common enemy, as the opposition well knew that Mr King

could use it better in their behalf than themselves, even if they had dared to publish such a statement regarding one of their own class.

In the *Bulletin's* editorial of May 14th James King of William says: "Among the names mentioned by 'A Purifier' in his communication of Friday last as objectionable appointments to the custom-house was that of Mr Bagley, who has since called on us, and by whose request we have made more particular inquiries into the charges made against him. On Monday we told Mr Bagley that we could not feel justified in withdrawing the general charge against him, for though in the particular cases mentioned we had not been satisfied that he was the party at fault, yet the general character we heard was against him. To this Mr Bagley urged that our informants were all enemies of his, which in one sense of the word is true, though they are not the persons he supposes. At our last interview with Mr Bagley we told him that if he could bring some respectable persons, known to us, who would vouch for him and explain away what had been told us, we would take pleasure in saying as much in our paper. Several such have called on us, but whilst they are unanimous in saying that Bagley behaves himself very well at present, yet when we ask them, for instance, about the fight with Casey, they cannot explain it satisfactorily. Our impression at the time was that in the Casey fight Bagley was the aggressor. It does not matter how bad a man Casey had been, or how much benefit it might be to the public to have him out of the way, we cannot accord to any one citizen the right to kill him, or even beat him, without justifiable provocation. The fact that Casey has been an inmate of Sing Sing prison in New York, is no offence against the laws of this state; nor is the fact of his having stuffed himself through the ballot-box, as elected to the board of supervisors from a district where it is said he was not even a candidate, any justification for Mr Bagley to shoot Casey,

however richly the latter may deserve to have his neck stretched for such fraud on the people."

This was the last editorial James King ever wrote; these were the words that cost him his life. The next day's editorial column of the *Bulletin* was a blank, speaking louder in its white empty silence than even when filled with the flaming words of its director.

The present issue was upon the street about three o'clock. The whole fraternity were watching for it, as it was generally understood among them what would be the result in case of further attack on Casey in that journal. Casey read it, and all within him became incandescent. Stepping quickly over to the editorial rooms of the *Bulletin*, which were then in the second story of a building on Merchant street, near Montgomery, he found King seated at a table in an apartment alone. An open door communicated with an adjoining room, where were two persons who overheard all that passed. Casey was much excited and out of breath.

"What do you mean by that article?" he demanded.

"What article?" asked King.

"That which says I was formerly an inmate of Sing Sing prison."

"Is not that true?"

"That is not the question. I don't wish my past acts raked up; on that point I am sensitive."

"Are you done?" asked King. "There's the door: go! never show your face here again!"

Casey moved toward the door, which was open. There he paused a moment and burst forth again:

"I'll say in my paper what I please!"

"You have a perfect right to do so," returned King; "I shall never notice your paper."

Striking his breast with his hand, Casey now cried, "If necessary I shall defend myself!"

"Go!" exclaimed King, rising from his seat.

Casey immediately went down the stairs.

This was about four o'clock. A few minntes past five Mr King left his office as usual for dinner. Passing up Merchant street to Montgomery, he walked northward along the east side in front of Montgomery block to the corner of Montgomery and Washington streets, where was situated a famous and fashionable drinking-saloon called the Bank Exchange, where prize-fighters and politicians used to congregate. Thence, without either slacking or increasing his speed, he started to cross diagonally to the northwest corner of the same streets, where then stood a one-story building occupied by the Pacific Express Company. When nearly across, Casey, who had been watching the movements of his enemy from the west side of the street, stepped forward on the sidewalk which King was approaching, threw off a short cloak which concealed a cocked pistol in his hand, and crying "Come on!" instantly fired.

"Oh God! I am shot!" cried King, and staggered into the express office.

CHAPTER III.

THE PRINCE OF VILLAINS.

> Wouldst thou to honor and preferment climb?
> Be bold in mischief, dare some mighty crime.
> On guilt's broad base thy towering fortunes raise,
> For virtue starves on universal praise.
>
> *Juvenal.*

Casey was about fifteen paces from King when he fired. The weapon used was what was known as a navy revolver, being larger than the ordinary six-shooter. The ball struck the left breast, glanced upward under the clavicle, and passed out below the shoulder-blade. He was not a bungler at butchery. It was a good shot for fifteen paces; and mark, it was the left breast that was struck. He was not a common dark-lane cutthroat, or a garroting pick-pocket. He was a politician and an office-holder, and when he wanted money he took it from the public like a gentleman.

Assassination under his delicate touch was a moral lesson, or as De Quincey would say, a fine art, in which design, grouping, light and shade, poetry, and sentiment were duly considered. Immediately after firing he rested his revolver upon his knee and with both hands cocked it. He then took several steps toward King, eyed his victim narrowly, as if to satisfy himself that the work had been effectually done, then turned, let down the hammer of his pistol, picked up his cloak, and started for the station-house, to give himself up. All he asked now was a fair trial.

We shall know more of this man, for California owes him much; next to Mr King more than to any one else

the bringing to a blazing heat the fires of purification. If to suffer death for one's country be sweet, to inflict fruitful death is surely something. Had Casey and all his crew suddenly sainted themselves, and set about scraping and whitewashing wickedness, their efforts never could have achieved such beneficial results as accrued from that single pistol-shot.

True, if Casey had not fired it probably some one else would have done the killing; but that does not lessen Casey's merit. He was leader of a cause as well as King. He had his instruments, his organ, and hundreds waited on his words. Their doctrine was like the vulture's; some creatures are made to eat and some to be eaten; the same benign influence originated both; let each fulfil its destiny. But to the record.

On the 4th of September 1851 a convict named James Casey was discharged from the state-prison at Sing Sing, New York, having completed a term of two years of hard labor, to which he was sentenced for grand larceny. Coming to California, he displayed so much cunning and skill in political manipulations that he was soon elevated to a high position in one of the corrupt cliques which largely controlled both city and state governments. Like his *confrère* Broderick, he was a leader among the roughs; like him he joined a fire company, and was elected foreman. He established the *Sunday Times* newspaper, before mentioned, of which he was proprietor and nominal editor, though too illiterate to write for the press himself. As inspector of election of the sixth ward, he easily controlled the election of city and county officers, for as the sixth ward went so went the city and county. The sixth ward became famous under his management; and a desperate fight at a primary in the spring of 1855 made Casey himself famous. At the autumn election of the same year he was returned from the Presidio district to the lucrative office of supervisor; though at the time he was not a resident of the district, nor was his name

mentioned on election day as a candidate. Yankee Sullivan, however, certified that Casey was duly elected, and it must have been true, for the Irish prize-fighter was judge of the election, and had a good double back-action ballot-box, which no one knew how to slide but himself.

During these years Casey's industry and honesty had secured him a fortune of, some say, forty thousand dollars, while others deny that he saved anything from his spoils. At all events, as he was yet under forty he might have turned honest, retired on his laurels, and fattened himself, for he was as lean as Cassius. In this way he might have kept life within his body these many years had not honor pricked him on, or rather off, as Falstaff would say. Although he had adopted a middle name, represented by the letter P, to conceal his identity, he had been obliged to acknowledge his criminal career in court one day; but this did not in the least weaken his political influence, or lessen his eminent usefulness as one of the high officials intrusted with the management of the public finances.

Short of stature, slightly built, with delicate features, bright intelligent blue eyes, and very large brain, he possessed altogether an intellectual cast of countenance, in marked contrast to that of his brother assassin Cora, his friend and elector Sullivan, and his astute counsellor McGowan. Cursed with greater ability than these, he was well fitted to be their leader. Above a high broad forehead the head was thinly covered with dark sandy hair, and the thin florid face was bordered by short side whiskers. His mind was active, his disposition quick and resentful, and his temperament nervous-sanguine. His dress was that of a gentleman.

Thief, fireman, ballot-box stuffer, supervisor, editor, murderer. And this man had a host of friends. There was the right honorable Judge Edward McGowan, standing at the time of the shooting in front of the

Bank Exchange. Now Ned was not the most reliable of friends, even when the man he loved was a villain. Mr William B. Watkins, who kindly furnished me a most interesting and valuable dictation of his experiences in those days, is of the opinion that it was no other than Ned himself who furnished King with the certificate of Casey's Sing Sing service.

But if the archenemy of all the vagabonds was to be slain, then Ned was a friend of the slayer; for Ned was not conductor of a Sunday-school, nor did he pass the plate in church. It was rare fun for Ned to set King on Casey, and then Casey on King; and if each killed the other, or the hangman secured both, so much the better. Scarcely had Wednesday's *Bulletin* appeared upon the street before Ned had purchased a copy, and hurrying off to his much maligned Casey spread before him the infamous article with sympathetic eye but buoyant heart. He well knew the words to drop which would at that moment act upon the nervous, inflammable Casey as coals of fire upon gunpowder: the words to cause an explosion productive of happy horror to the ever-lucky 'Ubiquitous.' It is said that at this brief pregnant interview McGowan urged Casey to kill King, and either handed him his revolver with which to do the deed or offered to lend it to him.

Pete Wightman, the butcher, was there talking with McGowan at the time, and casting significant glances along the sidewalk leading from Merchant street. James M. Estell, of state-prison contract notoriety, who for Mr King's death did not put on mourning, was there; likewise Vi Turner, and not far distant Webb and Hawes, and many others.

The killing of King was not Casey's first offence, but the culmination of a catalogue of offences. Says Mr Farnham of his accomplishments: "He sold nominations to the highest bidder, taking money from all; he furnished judges, shoulder-strikers, and stuffers on election days; he procured, for a consideration, the

passage of fraudulent bills through the board of which he was a member." He was pronounced the most expert ballot-box stuffer and ticket-shifter in the world. Officer after officer he placed in power, and then shared with them the spoils. If Casey sat upon a ballot-box, it was sure to hatch him out a follower.

Though a good Catholic, he displayed absolute atheism in morality and honesty. He was a most worthy member of the society for the suppression of political morals; he was a just striker, a wise stuffer, a religious whiskey-drinker, and in all his family and social relations a warm-hearted and humane villain.

Thus we see that Casey was a first-class villain; indeed a prince. Tricky fingers had woven the thread of his destiny. He was not what Californians would call mean; he would not descend to petty stealings. Among his friends he had the reputation of being highly honorable, though revengeful toward his enemies. He was much more gentlemanly and chivalrous than many an honest man. He returned good for good, which is more than can be said of some. He had been taught from childhood to right his own wrongs.

How, as one studies society, the laughing light of the grotesque appears to view! How the irony of respectability and fashion displays itself in certain phases of the public morality and public sentiment which we so devoutly worship! There was one who was afterward among Casey's judges, a Judas, and a far worse man than Casey, a more dangerous man, because less manly and more hypocritically subtle, around whose neck Casey himself might consistently have placed the cord that should strangle him.

This man was a lawyer by profession, a trickster by practice. He was a slippery eel, foremost in society, church, and state. The devil is the most devout of worshippers. Shortly before his death Mr King had berated him soundly for certain of his dark ways, but by some means he had managed to get himself placed

upon the board which was to adjudge Casey, and now he was loudest in lamenting the death of the reformer, quickest in avenging it, and foremost in collecting money for the relief of his family and for erecting a monument over his remains, which last mentioned act was doubtless one of the pleasantest of his life; and for personal reasons he would have the dead man's covering heavy and substantial.

A story is told of this lawyer, who with a San Francisco speculator was once in London attempting to place some bogus mines, *et hoc genus omne*, upon that market. They quarrelled and went to law. A broker, well knowing both persons, happened to be in London at the time, and to him the lawyer applied for testimony upon the character of his opponent.

"You know this man?" queried the lawyer of the broker, referring to the speculator.

"Yes."

"You have known him long and intimately?"

"Yes."

"Have had business transactions with him, and know of his business transactions with others, and of his general character?"

"Yes."

"Now, Mr Broker, could you not testify for me in court that you would not believe him under oath?"

"O yes," replied the broker, "I could easily do that."

"All right," responded the lawyer, in a tone of great satisfaction, "I will send a cab for you at eleven o'clock to-morrow. Good-day, and many thanks."

"But, stop a minute!" cried the broker, evidently somewhat embarrassed; "once in court and on the stand, it is difficult to say what questions may arise. Now suppose he should ask me to testify the same of you. I should have to do it! I should have to do it!"

Clearly, then, there are villains that are hanged and villains that are not hanged. A little villainy,

like a little learning, is a dangerous thing. Often a double display of villainy makes a hero of him whom half the quantity would hang. Casey in such a murder deems himself safe enough, safer than if he had committed half as heinous an offence, from the fact that the very magnitude and boldness of the deed raised him up defenders who would have let him go to prison, thinking nothing of it, for stealing a horse, but in common with others as cunning and far-sighted as himself, the uprising of the people in such vast vehement earnestness was an event not reckoned on. Did not Cora shoot Richardson, and was not his case progressing finely? That there were men in the ranks of vigilance committees who should have been in the committee's cells; that there were thieves who turned thief-hunters and loudly shouted, 'Stop thief!' that scoundrels fearful of arrest joined the vigilants and were apparently most earnest in procuring the arrest of scoundrels, there can be no doubt. Many were the knees an accusing conscience made to shake whenever bells tolled the assembling of the people. There were others at that time of California, very respectable gentleman, who, if not as bad as Casey, were none too good to be hanged. The speculator of whom I spoke, rich and respectable enough as stock-gamblers go, would sacrifice his best friend, his wife, his mother, his soul, though that were the least part of him, for money. Casey was true to his friends; for when asked by his judges if he had taken any into his counsel respecting the murder before he did it, if any knew the deed was to be done, he replied, "No one." Yet afterward, namely, on Wednesday the 21st of May, Andrew Hepburn swore that Peter Wightman, butcher, a friend of Casey's, and Lafayette Byrne, deputy-sheriff, were on the spot at the shooting, and seizing Casey protected him from the fury of the people, and led him away to the jail for shelter. Lafayette Byrne testified that he was in conversation with one McGrotty just before the murder.

"There is some shooting to come off," remarked McGrotty.

"Yes?" said Byrne; "between whom?"

"King and Casey," answered McGrotty.

Robert Somerville testified:

"I was on the corner of Mongtomery street on Wednesday last, on the sidewalk in front of the Bank Exchange. I saw James King of William crossing leisurely, with his head down, from the place where I stood toward the Metropolitan saloon. I saw Mr Casey step out from behind a wagon standing in front of Phil's saloon. He walked quickly, and a little carelessly, and in a manner not calculated to arrest the attention of Mr King until within fifteen paces of him, when he suddenly stopped, threw off his cloak, presented a pistol, and fired at Mr King, at the same time saying something which I could not hear. Mr King did not appear to be fully aware of the presence of Mr Casey until he received the ball. Mr King then turned his face toward me, uttered an exclamation, and walked toward the door of the Pacific express office, where he staggered in. Casey moved a few feet sidewise or forward, turned and picked up his cloak, and walked to the corner of Washington street, where he was joined by two men, one of whom was Pete Wightman. They walked up Washington street toward the station-house, when I saw no more of them. About ten minutes previous to this occurrence I was standing in the Bank Exchange. Two men were drinking at the bar. One was Pete Wightman. They were suddenly interrupted by a boy named John Butts, who hastily entered and whispered to them, when they at once dropped their glasses and eagerly turned upon him.

"'Who told you so?' in one breath they both exclaimed.

"'Casey,' replied the boy.

"They instantly left the room. I looked after them, and saw Casey standing on the outside on Washington street, near the door where they passed out. I turned and made a remark to a gentleman that something was wrong. The gentleman replied that Casey had been in a moment before and handed Pete Wightman a pistol. This induced me to look after them, and upon going out I saw Wightman standing in front of the *Bulletin* office. I passed up Clay street, where I saw Casey standing on the corner of Clay and Montgomery streets. I then turned toward the Bank Exchange and passed Mr King, who was conversing with Mr Kingsbury on Duncan's corner. I looked back toward Mr King and saw that Pete Wightman had changed his position; he had approached nearer Mr King, and was standing and apparently watching him. A moment after this Mr King left Mr Kingsbury and approached me, when I saw Pete Wightman closely following Mr King. Mr Casey probably passed on the other side, as he had plenty of time to do so leisurely. I saw Wightman after this, and he had hold of Mr Casey. At the time these events were taking place the shooting occurred. All the circumstances that I have related occupied only about ten minutes."

This concluded Mr Somerville's testimony. From the words and manœuvring described by these wit-

nesses there is no question but that the premeditated deed was known to others. So at all events thought the grand jury, who on this same day presented indictments against James P. Casey, Peter Wightman, and Edward McGowan for the murder of James King of William.

McGowan himself says that on that afternoon he had been trying a case before Justice Ryan, which he had postponed until the following day. "After my client and I had stepped out of court," he writes in his narrative, "I saw the *Evening Bulletin*, containing the above remarks with reference to Casey. I had not up to this time even heard that Casey had had an interview with King. I went from the court-room down on to Montgomery street and stopped in the neighborhood of the *Bulletin* office. I saw many persons gathered in knots about the streets, and everything indicated to me that a fight was expected. It was now about twenty minutes to five o'clock. While I was standing on the street a friend informed me that Casey wanted to see me at a bar-room kept in the rear of the city hall by James Godfrey, Esq. I at once went there, and among a great many other persons I saw Casey. He and I immediately stepped into the alley on which the house is situated, and I there learned for the first time what had occurred between him and Mr King. He was very cool, but apparently very angry. He told me that his determination was to attack Mr King, and that he had finished the adjustment of his affairs, so that in the event of his fall there would be no difficulty about them."

The chivalry called the assassination a fight. The reporters of the journals and their witnesses on the stand all took pains to show that King was armed, and that Casey before shooting cried to him, "Draw and defend yourself! Are you armed? I am going to shoot you!" While awaiting death King assured his friends that no such words were spoken; and if they

were, all agreed that King had not time to avail himself of any benefit from them before Casey fired.

Faint from the sudden and dreadful blow which struck the life-impelling cord and well nigh let the hesitating spirit free, James King had scarcely strength to reach the room of the express company, where he sank into a seat. And, indeed, had not some gentlemen caught him he would have fallen upon the sidewalk. The wound bled profusely, and was very painful; but it was the murder of his high purposes that now most troubled him. There is something in the uncaging of an incarnated soul so painfully appalling that no man, unless thoroughly brutalized or diabolified, unless he were less or more than man, would dare to take upon himself the fearful responsibility of doing. The murderer knows not what he does. His crime is beyond the faculties of man to appreciate, as it is beyond the power of words to abhor. The more we anatomize this atrocity the more its hideousness is revealed to us. Who would not rather at this juncture be King than Casey?

A bed was quickly provided for the wounded man, and a number of the most skilled surgeons of the city were soon in attendance. The wound was dressed, and by the aid of morphine the patient was put to sleep. About seven o'clock Mrs King arrived and nursed her husband through the night. The next day he was removed to a room in Montgomery block, where he remained until he died, which was the sixth day after the shooting. Dr Toland testified at Napa, in the McGowan case, that there were not less than twenty physicians in waiting—surely enough to kill any man though he had not first been shot.

It is needless to say that all was not harmony among them. A small-sized surgeon's sponge was introduced to stanch the hemorrhage, and this was retained, contrary to the advice of some, up to the morning of the day he died. Says Dr R. Beverly

Cole, in a highly important narrative of the case which he has laid before me: "It was in consequence of the retention of the sponge for so long a time, which was in conflict with my better judgment, that I on the morning of the third day retired from and severed my connection with the case, not being sustained in my opinions and suggestions by the other physicians in attendance. Grave professional suspicion arose as to the agency of the additional shock to the nervous system produced by the removal of the sponge, and subsequent examination of the wound with the finger and instruments, in producing the sudden and unexpected termination of the case." Dr Cole is no less esteemed as a citizen than respected as a surgeon. He was a personal and intimate friend of Mr King, and took an active part in the movement which followed.

It was hard for Mr King to reconcile himself to die at this time and in this manner; no one knows how hard. He retained his consciousness to the last. He was young and strong, and nerved to a contest which all the world regarded with interest. His whole soul was in the battle. His enemies must now triumph; and his well nigh heart-broken wife and children must be left to make their way through life alone, penniless, and unprotected. During the first night of his illness he several times turned to Dr Cole and asked if in his judgment there was any hope for him.

Alas, no! Hope for him? Yes. Beloved of the gods, he was permitted in one short moment of time to cast upon the altar of his high and holy purpose the whole volume of his young ambition, and achieve by his death more than he could hope ever to obtain by a long and wearisome life. Blessed privilege! To finish a worthy life-work just begun, by quick and glorious death!

There was quite a strange coincidence attending the threats made upon Mr King and his death. In

the course of some severe strictures on gamblers in general, and gamblers in office in particular, of whom Marshal McDuffie was one, in his editorial of the 21st of April Mr King says: "The allusion made by our correspondent to the reckless character of the gambling fraternity in this city, so far from deterring, only excites us to renewed efforts to expose them in their true colors. The *chevaliers d'industrie*, with their courage, desperate determination, and the amount of available wealth at their disposal, will find that they have met with an opponent who cannot be turned from his course by all the force that can be brought to bear in their behalf. We were this morning told that bets have been taken that in thirty days both this gambler McDuffie and ourself will have a resting-place at the Lone Mountain cemetery, and these bets are made by gamblers. We are opposed on principle to betting, or we would take the offer as to one of the parties mentioned. But this is all fol-de-rol. Do these gamblers suppose that brute force can decide such questions to the satisfaction of the public?" April has thirty days. On the 21st of May, James King of William was laid in Lone Mountain.

Mr King was, in my opinion, unjustly severe upon gamblers. In politics and morals he was a pessimist. He would have no man in office if he ever had been a gambler, without the most convincing proofs of his repentance. He would rule every man out of society who had ever gambled, and publicly brand him with infamy. Now a man need not necessarily be a bad man, a dishonest man, a licentious man, a brawler, or even an irreligious man, because he is a gambler. Were it so, God help California! for every other man in it is a gambler of some sort. Bootblacks and millionaires, clergymen, professional men, and women gamble in stocks; merchants engage in gambling speculations, miners bet their labor against the gold supposed to be in the claim. Agriculturists by putting in their crops wager that it will rain, otherwise they lose their labor.

Of course I would not be understood as comparing the risks of agriculture, mining, and merchandising with the betting of money against money, wherein there is always injury on one side and unjust gain on the other, wherein there is no gain but a great loss to the community; but between dealing in stocks for an advance or decline and the quicker and usually fairer risks of the gaming-table I see no difference, so far as the moral aspect is concerned or the evil results flowing therefrom. On the one hand I find no fault with all this, on the other I have no disposition to defend gambling or any other vice. I complain only of the inconsistency of the thing. He who in another condemns faro, when fairly dealt, while he himself deals in mining-stocks in the ordinary way, is either stupid or dishonest. I never placed a dollar on a gaming-table in my life. I never entered a club-room where gambling was practised, nor any private gambling-room. I never associated with gamblers, never had a friend who was a gambler, and have no sympathy whatever with the fraternity. I regard the gambling principle as one of unmixed evil. And yet I would be honest with the gamblers. I would vilify them not one whit quicker than I would vilify woman, the loveliest handiwork of the creator, or than I would vilify undefiled religion, the holiest and most exalted of sentiments. In an analysis of society, I would mingle the pearls and the swine together, and if I saw falsity in the former and truth in the latter, I would so regard them. This wilful blindness in observing ourselves, and slavish obedience to all the mandates of form and fashion, I regard as among the greatest evils of the day. Why not recognize intelligence in an oyster, or speed in a snail, or morality in a gambler, if such qualities be there!

In every occupation there are classes and grades. There is as much difference between an honorable gambler and a thimble-rigger as between an honest auctioneer and a Peter Funk. There are gamblers

who would no more think of committing an unjust or cruel act than would a high-minded clergyman or a tender-hearted woman. There are gamblers who are magnanimous friends, kind husbands, good fathers, and would be useful members of society did not society indiscriminately set her heel upon them; nor would I blame society in this if she felt so disposed, if society would only set her heel on stock-gambling clergymen and immaculate matrons, or otherwise manifest some degree of consistency in her heel-crushings.

And now let it be recorded and so handed to posterity. Honor to James King of William! Let all the people praise him, who did that for California's purification and fair fame which no other did, which no other dared to do. Let generations upon generations praise him who gave his blood to wash the stains from their inheritance. Let the hills and valleys of this fair Pacific slope, the sea, and the quiet towns and busy cities that stand beside it, praise him whose voice purified the air, whose pen cleansed the sewers of society, and whose example inspired his fellow-citizens with courage to do the best and noblest, stimulating them to that high endeavor whose fruit is peace, civility, and proud prosperity. The usefulness of his life was only exceeded by the rich results of his death. His enemies, the enemies of justice, morality, and gentle citizenship, slew him; but from every drop of his spilled blood there shall spring a hundred avengers, which shall be as dragons' teeth in the vitals of evil-doers, bringing upon them swift destruction!

CHAPTER IV.

THE LOOSING OF LATENT LAW.

1st Gent. An ancient land in ancient oracles
Is called "law-thirsty;" all the struggle there
Was after order and a perfect rule.
Pray, where lie such lands now?

2d Gent. Why, where they lay of old—
In human souls.

We have seen on one of the corners most thronged of the busiest street in San Francisco, before the close of business for the day, one of the most respected and useful members of the commonwealth shot, so that the sixth day thereafter he died.

It was not a common murder; it was a sacrifice to Satan. The man was offered up for the principles he pronounced. He had been a reformer. He was not a Messiah; certain persons representative of a class had cheated him, and he hated the cheaters and the class. He was a good man as the world goes, and his championship was for the right. He had failed as a banker; and having suffered severely from the sins of certain of his fellow-citizens, he flung down the gauntlet and declared a war of extermination. To this end he forged that most formidable weapon of an earnest and able freeman, a newspaper. As editor of a daily journal he cut right and left into the ranks of corruption until the enemy, exasperated, rose and with powder and ball retaliated.

The people were profoundly moved. Whose turn next? each asked himself as he walked to and from his business. Gradually had arisen among the industrious classes a feeling of insecurity concerning life

and property, which now broke out in open alarm. To the government under which they lived the people of California were devotedly attached. Around it in the minds of some clustered sentiments warmed to enthusiasm by ancestral tales, associations which glowed with as pure a patriotism as ever inspired lovers of liberty. Others, strangers, out of all the world's politics had chosen the social and political institutions then unfolding in these Pacific States of North America as the fittest under which to live, and had cast in their lot accordingly. Both Americans and foreigners respected and loved the laws under which in California they found themselves, and of their time and substance contributed liberally and cheerfully for their support. In return they asked only to be protected from those social carnivora whose profession it was to prey upon industry. And this was their right.

But such protection they nowhere found. Their situation was most anomalous. Lovers of quiet, law-abiders, conscientious in the discharge of duty, as free as under fashion and their nature human it was possible for man to be, and as strong and determined as they were free, they yet groaned under a despotism compared with which feudal serfdom was liberty itself. Their protectors were their natural enemy, from whom they must seek to be protected, and who had fastened upon the virtuous portion of the community the fetters forged by themselves. They were heavily taxed for the benefit and support of the very class for whose destruction they paid taxes. The tables of law were turned upon the law-makers by the lawless; vice had seized the reins of government, and was driving the people to destruction. Thereupon arose James King of William and denounced such doings; and for this boldness he was slain.

The striking of Casey's ball against King's breast was like the dropping of a bowlder into a lagoon. A sudden splash followed. Then round the immediate spot were the surgings and foamings accompanying

the loosing of human passions; a little away were the waves of swelling excitement, unbroken as yet by the central ebullitions, while still more distant the circling agitation spread until the farthest outskirts of the country were reached, and every drop of manly blood within its borders tingled from the blow.

It was every honest man who was struck. Villains alone were on the striker's side. The good citizen knew this; knew it without being told; and rushing instinctively to his room for his revolver, he belted it on as he ran toward the scene of commotion. Shortly after the shooting sounded the Monumental bell, silent so long in the people's sacred cause—sounded amidst the storm like a resurrection note; and had it struck of its own volition its hearers would have scarcely manifested surprise.

From the spot of the shooting to the station-house, or old police prison, was less than a block. No sooner had Casey fired than his friends closed round him, and hurrying him thence locked him up. But this sort of thing was becoming stale. A repetition in this instance of the old form of justice would make the very stones cry out. And as if, indeed, the stones had turned avengers, men rose as from the ground; whole blocks emptied in an instant their contents upon the thoroughfares, and before the friendly bolt was turned on Casey, not more than three minutes after the fatal shot was fired, the streets in that vicinity were packed with people. Louder and louder pealed the Monumental bell, and from afar the angry tide set in, pale rage chasing wonderment from the face of each arrival as with muttered curse the tale was told him.

"Where is he?" they cried, becoming tigerish. "Hang him!" "Run him up to a lamp-post!" Those round the city hall rushed for the police quarters with bloody yells of "Hang him!" "Bring him out!" "He will get away if left with the officers!"

All the while the officers had been upon their guard

lest in the event now happening they should be taken at a disadvantage. All doors were doubly bolted and the entrances to the police quarters strongly barricaded.

Quick to discern in the low deep-toned imprecations the quality of the approaching storm, the officers and the friends of Casey saw removal to stronger quarters essential to the prisoner's safety. He must be taken to the county jail, on Broadway; but the question was how to get him there. After several ineffectual attempts a carriage was stationed on Washington street at the entrance of Dunbar alley, which leads to the police prison, and Casey thrust into it, Marshal North sustaining him on one side and Charles P. Duane on the other. Officers with drawn weapons filled the vehicle; Billy Mulligan and other friends mounted the outside before and behind, covering instantly with their pistols any obstreperous mobite. The driver applied the whip; the horses in a few plunges cleared the crowd and were away up Kearny street and round the corner to the jail, an infuriated crowd following some fifty yards behind.

Gathering round the place, the throng rapidly increased. A dense mass of enraged humanity came streaming thence through every thoroughfare leading in that direction. Upon a bluff that rose above the street on the opposite side, and in the space before the jail, stood a large body of officers, in the midst of whom rose Marshal North, all of whom were active in warning the people not to approach. "Hang him!" was again the ejaculation. "Arrest the officers!" "Good! that's it!" "Let's take the jail!" and like exclamations burst from every quarter.

At this moment some one seemed desirous of addressing the people, but so great was the confusion that he could not be heard. He attempted to mount the bluff, but was beaten back by the officers. George W. Frink, then proprietor of the Tehama House—and from his own mouth I have it—was standing on

the jail step at the time. He saw this man, much excited, turn from where the officers had stationed themselves, cross the street, and mount the balcony of a two-story building. There he began again to talk.

"Who is that?" cried one.

"That is Thomas King——!" shouted Frink.

"Stop, or I will arrest you!" exclaimed an officer, seizing Frink by the coat-collar.

"——Brother of James King of William!" continued Frink, paying no attention to the officer. Mr Frink well knew that it would be far easier for him, with the angry city on his side, to take in custody the officer and all his associates, than for all of them combined to arrest him.

King then continued his harangue, which was mostly a recitation of personal wrongs at the hands of the incarcerated. Of the shooting he said: "My opinion is that it is a cool, premeditated, and cowardly murder, by the hand of a damned Sing Sing convict, and by a plan of the gamblers of San Francisco. About an hour ago I was in at old Natchez' pistol-gallery, and he told me that my brother was to be shot. If he knew it, did not the gamblers know it? and was it not a premeditated plan? Why did not the officers know it and interfere? Gentlemen, we have got to take that jail, and to do so we must kill those officers unless they give way to us, and we must hang that fellow up!"

Cheers followed the sanguinary oration; but it was not in this wise the insulted city would lend itself to revenge. An officer then made a movement to arrest Mr King, but Marshal North interfered, telling his men to mind nothing the people should say. Finally King was persuaded by his friends to enter a carriage and leave the ground.

Next a row of bayonets was seen rounding the corner of Dupont street, and the people, supposing them borne by their allies, raised a shout, which was quickly turned to hisses when they ascertained the

soldiery to be volunteers in citizens' dress come to assist the police in maintaining order.

At half-past six Mayor Van Ness appeared before the jail with uncovered head, requesting to be heard. Quiet was given him, when he said: "You are here creating an excitement which may lead to occurrences this night which will require years to wipe out. You are now laboring under great excitement, and I advise you to quietly disperse. I assure you the prisoner is safe. Let the law have its course and justice will be done." He was answered by shouts of derision. "How about Richardson?" "Where is the law in Cora's case?" "Down with such justice!" "Let us hang him!"

Half an hour later another squad of citizen-soldiery appeared upon the scene, and as they were crowding their way to the centre some dirt was thrown at them, whereat the officers on the bluff levelled their weapons at the offenders, but were promptly checked, and were told not to fire upon the people without positive orders. Time and way were not yet; it was not by flinging dirt that San Francisco was to be regenerated. Besides the volunteers, the San Francisco Blues and other military companies turned out, and recruits continued to arrive, until at ten o'clock three hundred men guarded the jail, armed against the citizens. Meanwhile groups collected at the spot of the assassination, at the Plaza, and in the streets in various parts of the city, until half the town by the friction of electrical words were stirring the atmosphere in the invocation of cleansing storm.

Between seven and eight o'clock ten thousand persons had collected on Montgomery street, between Clay and Washington. On the balconies of the houses lining those streets were vehement speakers, cheered by the people, making flaming appeals for vengeance on the murderer of their champion. At length the question was put whether they were ready to proceed to action at once. A unanimous "Ay!"

rose from the vast assemblage. It was then proposed that all should disperse, arm themselves, and meet on the Plaza at nine o'clock. At the time appointed the Plaza and all the avenues approaching it were thronged. Officers of the law and military men were groaned at and hissed whenever they made their appearance. The authorities seemed determined at all hazards to keep possession of the prisoner; his escape from their hands at this juncture would have been death to themselves as well as to him. No organization was made that night on the Plaza. At half-past eleven a mounted battalion consisting of the California Guard, First Light Dragoons, and National Lancers were drawn up on Kearny street, and after taking arms and ammunition proceeded to the jail on Broadway, and there stood guard during the night.

Let us mix with the people and individualize our observations a little more. Thomas J. L. Smiley, so efficient in the first Committee, and destined to yet more important trusts in the second, was closing his business for the day, when, hearing the old familiar signal, he dropped everything on the instant and joined his fellow-citizens on the Plaza.

James N. Olney, subsequently prominent and most efficient in vigilance military matters, had not as yet attached himself to any company in this country, though he had always been a military man, and had raised a company at Oakland, New York. He had not yet moved to California when the first Committee flourished, and hence was unable to distinguish the color of the clouds from experience. Neither had he heard anything spoken, in so many words, about extra-judicial justice, or the organization of a body of men to change the state of things. And yet when the Monumental bell struck, directed by his intuitions, he ran for his revolver as naturally, almost as involuntarily, as one throws up one's arm to ward off a blow at one's head. "I went for my pistol," says

General Olney in his dictation, "and came down and found that many others had done the same thing. There was a feeling prevalent that something must be done, people hardly knew what. Then there began to be gatherings and discussions, and the talk was generally that a vigilance committee must be formed. I presently heard that there was a room where they were gathering for the purpose of forming such a committee. I went there and found quite a number of people, and the matter was being talked over."

Oliver B. Crary, ship-captain and merchant, in an interesting narrative given my reporter, remarks: "Dempster and I got the notification too late to attend the first meeting. The next morning at breakfast Dempster said, 'We must attend to that thing to-day. I will go down to the office and tell Eben Hartshorn.' And we went."

J. D. B. Stillman, after speaking of the flight of Casey from the police prison to the jail, and the angry demonstrations there indulged in by the people, continues: "Then word came and was circulated through the crowd that there was to be a meeting at Montgomery block. A Committee of Safety was being organized; and as the crowd were not in condition to carry an assault against the jail, filled as it was with the sheriff's party, the people gradually dispersed. At that time the Vigilance Committee was managed as a close corporation; I joined afterward when several thousand were members."

After introducing Thomas King to the citizens assembled at the jail, Mr Frink, who had been called by the excitement from the dinner-table, returned home to the Tehama House. "Jerome Rice," who was living there at the time, says Frink's narrative, "and Professor Otto Sutro came to the office and told me there was to be a meeting at the Pioneer Hall, on Washington street, near Kearny, opposite the Plaza. I went up with a number of the hotel guests. There we were requested to sign our names for calling a

Committee of Safety. It was then about eight o'clock. We were then instructed to meet at a later hour at G. B. Post and Company's warehouse, at North Point. We went, and found the second story filled with people, all wanting to talk at once. Among those who got a word in edgewise were William Arrington, William T. Coleman, and G. B. Post, who was considerably tight. He insisted on going right to the jail and taking the men and hanging them; and some of the others agreed with him. He said he had arms enough to batter the jail down. The result was that the meeting broke up without any concert of action. On going outside the building we found two carts, on each of which was loaded a ship's cannon. I called Coleman's attention to this, and said if they were left there the roughs would get hold of them, and they had better be put into the store-house. He agreed, and they were put inside for future use." Mr Bluxome designates the meeting as "more a mob than anything else." Mr Watkins says, "I was down there at the time of the meeting, but came back and found that some of the members of the old Committee were organizing in the rooms over the Bella Union."

I may as well here state, if indeed such an avowal be necessary, that it is my sincere desire and my determined purpose in this work, as in all my writings, to present plain unvarnished truth, stripped of favor or prejudice. The best, the noblest, have their faults. My candid opinion is that no better or nobler men ever lived in any age or country than those who conducted this movement. I shall not go out of my way to pick flaws in their character, or to parade those little defects incident to human nature. I wish them to stand, as they deserve, high in the estimation of all good men throughout all time. I shall present them proudly before the world as nature's noblemen. But on the other hand I shall not go out of my way to cover their faults. I cannot. The charm of history,

to me, is truth. The moment I suspect myself prejudiced on any subject, I take no further pleasure in it. This digression I feel necessary in view of Mr Frink's statement concerning drinking and its effect upon the initial meeting. It was the custom, a most deplorable one, among all classes in those days to drink at bar-rooms, and elsewhere, when not absolutely thirsty; to drink at irregular intervals, and in no measured quantities, according to time, place, and state of feeling. This kind of drinking was the rule rather than the exception, and indulgence affected in no wise a man's respectability. Drunkenness was a different matter. But from moderation to excess is in some instances an almost imperceptible step. He who drinks at all may take too much at a time when he can least afford it. A merchant, no more than a monte-dealer, may exceed his measure of fiery liquid without being affected by it. There were many among the members of the Vigilance Committee who drank, some to excess; but they were by no means an intemperate class. Many did not drink at all. Those composing the Executive Committee of 1856 could scarcely be called drinking men. Nevertheless, whatever the extent of the vice, or however the custom may be regarded, it is no part of my duty or inclination either to expose or cover it. I present the facts.

James D. Farwell, returning from an absence, found "the public feeling very much excited, and it did not take long to work it up into the systematic form it took. It did not require much time, because our minds were made up, and besides we had the example of the first Committee. We found the time had come to act."

William T. Coleman appeared upon the Plaza after a hasty dinner, taken between six and seven o'clock. He found himself among a surging mass of people, well nigh wild in their violent demonstrations. As he approached a large group on Washington street, Arthur Ebbetts, George Ward, and others, mem-

bers of the Committee of 1851, stepped forward and said:

"We were looking for you."

"For what?" asked Coleman.

"To organize the Vigilance Committee," they replied. "Discussion is unnecessary. This state of things has been borne long enough. We can endure it no longer. We must organize, protect ourselves, and save the country, or submit to further disgrace and ruin."

Coleman acquiesced in their sentiments, thanked them for the offer of leadership, but declined, saying he would assume his share of the risk and responsibility, but would serve in the ranks only. "I went my way," he says in his narrative, which is very full and of inestimable value to the annalist of this epoch, "comparing notes with people I met here and there, doing all I could, endeavoring rather to allay excitement. I called on a number of people; and wherever I met them, I advised them to be calm, and not allow the city to be disgraced by any excitement, or any ill-advised expressions even. There was a great diversity of opinion, and nothing could be gained by rashness; a great deal might be lost, certainly would be. Later, meetings were held at different places, and all sorts of propositions put forth. Different attempts were made to organize a committee, seemingly without any good prospect of success. I did not share the excitement to the extent I found many of my friends did; excitement did not seem to be the remedy, nor needful."

These the actual thoughts and experiences of the men who were foremost in what followed at the momentous inception of the scheme of reform cannot fail to impress us with the necessity of its formation, the spontaneity of its origin, and the earnestness and disinterestedness of those upon whom the burden and responsibility were destined to fall. From them and from what else has been written, the reader may

form an approximate idea of what every good, patriotic, and right-minded man then in San Francisco did on this night of the 14th of May. That is to say, given the bent of the man's mind and its surroundings, his action may be easily determined. Casey's pistol-shot was the applied match which should release the governing power latent in every free people, and whose full volume and strength the possessors themselves never before suspected.

When James King, as the representative of those most eagerly laboring for public virtue, was shot down by a convict whose vicious career had made him a fit representative of the thieves and ballot-box stuffers who had secured public station, and the community saw him surrounded and protected from the anger of the by-standers by sympathizing friends among the officials, and hurried to the jail as a refuge from popular indignation, thousands who had previously hesitated felt that the time for action had come, and leading men who had argued against popular organization realized that the issue was then and there forced upon them; that longer delay would only invite new outrages, if it did not, indeed, result in spontaneous combustion; and the passions of excitable men would be kindled into a blaze which might prove uncontrollable. The assassination was generally regarded as the result of a conspiracy. While a thousand homes were stricken with indignant horror, the friends of Casey could scarcely restrain their joy.

The excitement attending the outrage partook more of anger than surprise. It had been for some time past current opinion that King's assaults on the band of conspirators, who had divided nearly all the people's power among themselves, would eventually prove successful in accomplishing their downfall. It must be so. The central power of a community must be upon the side of right and morality; otherwise chaos quickly comes. But it was none the less certain that in their fall they would drag down him who caused it; that

maddened by exposure and loss of power some one of their number would be found desperate enough to silence the voice that spoke their destruction. It was not surprise that caused men so suddenly to drop their merchandise and abandon their work-benches for the gossiping street; it was not solely affection for Mr King, though his unspotted integrity, warm heart, and high aims had won largely upon their kind regards; neither was it alone admiration for his daring, his perseverance, or his power as a reformer that drove the masses with close-set lips and flashing eye to spontaneous gatherings. It was the conviction that the man they loved, their champion, had been stricken down because he was their champion; and if they did not now proceed to enforce the law and execute justice, they would deserve the inevitable consequence, the still greater insecurity of property, liberty, and life.

Why was there not an attack on the jail that night? Why was not battle raging and blood flowing on the streets immediately? Mark the query, for the cause is most significant. It was an old issue, and Californians are accustomed to act quickly. Almost instinctively men on both sides seized their arms. Why did they not use them? The reason is because the people had no organization, no leader. The citizens were very angry; but they were not so bereft of their senses as to turn themselves into a mob and their city into a slaughter-house. There were men enough among them fit to lead, but not one of them would lead a rabble. They must have authorization; God and the people must be with them, must direct and sanction their acts—then they would fight. But not one blow would they strike for passion's sake, for hate, or revenge; not one drop of blood would they shed unhallowed by authority. Cry your reverence for forms of law to bigots and simpletons; here was the mighty power of law before which these breakers of formulas curbed their fierce passions and bowed with a dutiful

obedience never so much as felt by mere sticklers for forms. Here was the sacred power of nature, of man, of morality, of right; and the people, though surging upon the angry waves of tempestuous wrongs, would not stir to battle without the benediction of the inherent and central power.

CHAPTER V.

GENESIS OF THE GRAND TRIBUNAL.

Anarchy plus a street-constable; that also is anarchic to me, and otherwise than quite lovely.

Carlyle.

Every organized movement of the people has two distinct phases or conditions, an internal and an external. The visible cause and effect take on invisible agency, the invisible being no less real and substantial than the visible. The power which regulates does not make society, but is made by it; or, more strictly, formulated social force is a product rather than an agent; and aggregations of men, *a priori*, are in their quality and character determined and governed by the properties of the units. The sun beats up moisture—from the briny ocean clouds distilling fructifying rains, from stagnant pools miasmatic vapors breeding disease and death; so necessity, or progressional force, acting on society, from the fermenting follies of ignorance and superstition distils chaotic passion, and from its moral ideal cohesive life and advancement.

Hitherto this, the grandest of all popular exhibitions, has been seen only upon its surface; the hidden and secret springs of its machinery have been kept carefully wrapped in mystery. The world knew not the noble apostles of this reform. The disease and the cure only were visible; the medicine with its subtle chemistry was known alone to the physicians. Day by day the public knew what was done; but how or by whom, it did not know. Into this latter

category falls this, and the greater part of the immediately succeeding chapters, which I shall endeavor faithfully to present as it came to me fresh from the lips of the actors themselves, and from the archives of the association. It shall be my aim to carry side by side in this narrative both the inner life and the outer expression of the movement, so that it may be seen in its entirety, so that it may be felt in its continuous flow a mighty stream of popular will, its bank of vice-bound superstition burst, coursing its way through untried fields.

We have seen the cause, the climax; we are now following the remedy. The immediate fear of the better-minded was an outbreak of ungovernable passion on the part of the people, which would destroy all the benefits of the lesson to be taught and carry to its absurdest extreme that very doctrine of retaliation which it was their chief purpose to disavow. Coleman saw this danger from the beginning; so did many of the others; and throughout the whole reform the difficulty was not in going forward but in holding back. This will be more clearly seen as we proceed.

It is not necessary for me to particularize all the numerous projects for avenging the assassination of Mr King immediately after the occurrence. The sentiment of the people at the police prison, at the jail, on the street, and at the North Point meeting, has already been noticed. In several places about town, as the Pioneer Club, the rooms over the old Bella Union, a saloon fronting Portsmouth Square, on Washington street just above Kearny, on the Plaza, at the office of Aaron M. Burns, and elsewhere, attempts were made to organize; but this was too mighty a matter for cliques or clubs to handle. The exigency demanded men, all the men, the strongest and best of the town. Following the narratives of Frink and Coleman, we left these gentlemen returning from the meeting at G. B. Post and Company's warehouse, where nothing definite had been accom-

plished. It had been spoken of upon the street that a meeting was in session there, as at Pioneer Hall and at other places. So merchants and others hastened thither to learn what was to be done, and finally after no little unfruitful discussion, becoming wearied, they dispersed informally. It is one thing for a rabble to talk of hanging, or even to do it; but it is quite a different matter when the pillars of society contemplate removing their support from underneath the social structure and turning public judges and executioners. There is no wonder that men substantial enough to be pillars at all should pause before kicking down what they all their lives, they and their fathers and grandfathers, had been holding up as worthy and worshipful.

Walking up Washington street from North Point, the two citizens continued their conversation as to what should be done. There had been much talk of reviving the old Vigilance Committee; the rumor was abroad that this was being accomplished; the people were prepared, nay exceedingly eager, for such an announcement. In view of the absence of any apparently more feasible plan, Frink fell back upon the old proposition, and advised calling a meeting for the next morning.

"Do you know of any good vacant building that we could get?" asked Coleman.

"Yes," Frink replied; "the hall on Sacramento street, near Montgomery, formerly occupied by the know-nothing association."

"The use of that hall might smack of politics, and so prejudice our cause with many," remarked Coleman. "There are difficulties enough to meet without increasing them unnecessarily."

"That objection amounts to nothing," said Frink. "Political jealousies are swallowed in a surging sea of pure patriotism. We can use that hall temporarily, and then adjourn to a more fitting place as soon as we can find one."

The measure was agreed upon. Stopping at the Bank Exchange, Coleman wrote a call for a meeting.

"How shall I sign it?" he then asked.

"Put your own name to it," said Frink, "as you are one of 'the Thirteen' of the old Committee."

"No," replied Coleman; "let it be 'One of the Thirteen,' as we disbanded under the name of 'the Thirteen.' To this Frink assented. The call then read as follows:

"THE VIGILANCE COMMITTEE.

"The members of the Vigilance Committee, in good standing, will please meet at No. 105½ Sacramento street, this day, Thursday, 15th instant, at nine o'clock A. M.

"By order of the COMMITTEE OF THIRTEEN."

Of this notice Coleman made two copies and Frink three. The two gentlemen then went to the *Alta* office, where they saw Mr MacCrellish, the proprietor, and Mr Fargo and Mr Buffam, then on the editorial staff. They found these gentlemen much concerned as to the proper course for their journal to adopt under the present turbulent excitement.

"Two editorials have been written and torn up," said MacCrellish, "and with the third we are not satisfied."

"Let us see it," said the visitors. It was produced and read to them.

"That will not do," exclaimed Coleman. "You say there was an affray on the street. There was a murder committed. Tell the facts as they are."

Thence the two gentlemen proceeded to the offices of the *Chronicle*, the *Herald*, the *Courier*, and the *Town Talk* respectively, where they were courteously received, and insertion of the notice promised in every instance, free of charge. Thus flew the hours till past midnight. One o'clock in the morning found the two men at the door of the hall on Sacramento street knocking for admittance.

"Who's tare?" came in deep Dutch tones from within.

"Tell us: is this hall empty, and who is the agent?"

"Tamt if I know, this time o' night."

"Never mind," said Coleman, turning to his companion, "the people will get into it in some way in the morning. Let them alone for that."

Thus closed the night of Wednesday, the 14th of May. Early next morning, long before the appointed hour, an eager throng pressed round the entrance to the place of meeting, which was on the upper floor of a three-story building. This hall of the know-nothings, which was situated on the south side of Sacramento street, between Leidesdorff and Sansome, and in which only one meeting was held, must not be confounded with the permanent quarters of the Vigilance Committee, sometimes called Fort Gunnybags, situated on the same side of Sacramento street, below Front.

It was as Mr Coleman had surmised. The people had come and had found a way into the room; what was one sleepy Dutchman to wide-awake San Francisco? When Arrington, Taylor, Burns, Gillespie, Manrow, and others destined to play conspicuous parts in the unrehearsed drama arrived, they found the hall crowded. Then, as Mr Dempster remarks in a most able and eloquent narration, prepared for me with great care, a narration in which the heart-beats of the movement seem to pulsate under his pen: "Somewhat reluctantly, but none the less resolutely, the men who were entitled to lead stepped forward, and with administrative energy, but with solemn deliberation of manner which betokened their appreciation of the weight of responsibility assumed, began to organize the eager masses, whose fiery enthusiasm urged instant action. Their demeanor quickly won the trusting confidence of those to whom they were personally but little known, and all authority was confided to their hands."

As briefly as possible the preliminaries of organization were discussed—how it should be done, and who

should take the lead. William T. Coleman, all things considered, seemed to them fittest for chief. He was a well known merchant, and his name would command respect and inspire confidence. Against his honor and integrity suspicion had never breathed. Able and influential, he could likewise bring to his aid his former experience gained in the Committee of 1851, of which, as we have seen, he was an efficient member.

"It is a serious business," said Coleman, as the question was presented to him. "It is no child's play. It may prove very serious. We may get through quickly, safely; we may so involve ourselves as never to get through."

"The issue is not one of choice but of expediency," was the reply. "Shall we have vigilance with order, or a mob with anarchy?"

"On two conditions I will accept the responsibility," replied Coleman; "absolute obedience, absolute secrecy."

It was agreed that these should be the corner-stones of the structure. Ten of those present, of whom Aaron M. Burns was one, were named to prepare the form of an oath of fealty to the association, which which would pledge the taker of it as fully and as strongly as the power of words could bind; which would pledge inviolate secrecy and implicit, unquestioning obedience to an executive committee to be appointed; which would pledge property, honor, life, soul, all that man has or is in this world or in the next. Mr Coleman was the first to subscribe to this oath as president and No. 1, with power to organize, such being the expressed sense of the meeting.

The executive body, as a matter of course, was to be representative of and chosen by the general body. But it was stipulated by Mr Coleman on accepting the presidency that he should be allowed to choose his first council, subject to the approval of the whole Committee. This was a most important measure, as

by it alone could he secure such support as would insure unity of purpose and directness of action. Thereupon he proceeded immediately to call round him such men as he could rely on for wisdom and energy. To the first half-dozen subscribers he administered the oath himself. He then requested these to name others from whom he might select. A book was then opened and the work of enrolment went on. It was agreed for greater safety, for better working results, that the organization in all its severalties and units should be entirely impersonal; that no names should be used, but that each member should employ the numerals designating the order of admission in place of his name, and that each should be known only by his number. This was carried into operation with much more completeness in this association than in that of 1851, where it originated and was practised to some extent.

Mr Burns was No. 7. William B. Watkins' name was among the small numbers. After thus writing himself high among the rebels against wickedness he was stationed at the foot of the stairs, in company with Jerome Rice and others best acquainted with the character of the persons and classes applying for admission, to permit those only to pass who were of good standing in the community. Frink's number was 26. He was a little tardy that morning, having been up so late the night before. While speaking with Mr Rice at the door, Mr Dows, then assistant alderman, came up.

"How is this, Frink? Is it sound? What do you think of it?"

"How do you stand on the question?" asked Frink.

"I am with the Committee," replied Dows.

"Then join it," said Frink.

Mr Farwell found a dense crowd upon the stairs as he forced his way in and wrote down his name opposite No. 17. Isaac Bluxome junior subscribed his name at 33, and became famous as '33 Secretary,' this

being the symbol of the same person representing the same dread power which in the first Committee was known as '67 Secretary.' Mr Smiley was the twentieth to enroll his name. Dr Cole's number was 252; and so on.

The waves of tumult that had swelled so loudly the night before had subsided to a trembling calm. There was less noise, fewer words, and those low-spoken and curt; but there was none the less determination. There was that in the atmosphere, highly charged as it was with electrical hate, which warned any so disposed that it was better not to defend the act of Casey, or manifest in any way disapprobation of the proceedings in this vicinity. It was a phenomenon of not frequent occurrence in the evolutions of society, to see a cityful animated as one mind, each wrought up by the same spontaneous idea, each flinging himself unsolicited into the general cause, and then hunting about the streets for some one to lead them. The compressed power of society was all ready for the discharge, but it lacked direction; force cannot exist without control.

Admissions were very rapid. By eleven o'clock of that day, and all day, and for several succeeding days, from morning till night, there and at the rooms to which they moved soon after, a long line of eager applicants stretching far up the street, and round the corner into the cross-street, stood waiting each his turn for examination and enrolment. They were not impatient, and they did not seem to consider fatigue. They were set in their compressed energy, like a delicate fire-arm, to the discharge of this duty.

Between this gathering and those of almost equal magnitude which were in the habit of besieging the post-office upon the arrival of each semi-monthly mail steamer, and waiting for hours in the hope of letters from home, there was a striking contrast. They were the same men, drawn up in similar lines, each awaiting his turn—but for how different a purpose! Love

and tender memories prompted the one: a godly hate the other. Leading as it did to sacrifice, along the vigilance line there ran neither laughter, jokes, nor jollity, such as accompanied the anticipations of pleasure which lit up almost every countenance at the periodic letter-delivery gatherings. Now every streak of humor in their nature was turned to nerve, and every nerve to iron. Stubborn and stolid they stood before the vigilance quarters; and although the lips were commonly compressed, there was that solemn stillness of demeanor which betokens a sense of deep responsibility. Coupled with resolute determination to bear it dutifully, there was that flashing from the eye which betokened the flame within, and which no Yosemite could extinguish. The occasional remarks exchanged by acquaintances were generally uttered in the low tones which men employ when in the vicinity of sorrow or death. Hereafter within the ranks of this organization we shall see none of that fierce excitement, none of those outcries for vengeance that flame out in most associations for the punishment of outrage or the resisting of some infringement of rights. Each man of them climbing those stairs leading to the hall dropped at the entrance his mobbish instincts, and as his keen glance encountered the keen glances of the examining committee self was submerged, and his purpose took on a higher, holier form than that of passionate revenge.

Not more than twelve of the Executive Committee were chosen at this meeting; and with these the president proceeded further to organize. The rooms had already been cleared of stragglers, and now the gentlemen before named were stationed at the door with instructions to admit all good citizens who expressed a wish to join the Committee, scrutinizing closely, meanwhile, the name and character of all applicants. Those who were approved were admitted to an ante-room, where the oath was administered. After this they passed into another small room, where

they signed the roll and took their number; they were then admitted to the hall, where members were engaged in grave discussion.

One of the first questions raised in the hall of the general committee was the action which should be taken in regard to the attitude assumed by the San Francisco *Herald* toward the movement.

In its issue of the 15th of May the *Herald* gives but a very short editorial on the subject absorbing all interest. I reproduce the whole it:

"An intense excitement was caused in this city last evening by the affray between Mr James P. Casey and Mr James King of William. Motives of delicacy needless to explain force us to abstain from commenting on this affair; but we could not justify ourselves in refraining from the most earnest condemnation of the mob spirit last evening. The editor of this paper sustained the Vigilance Committee in times past to the peril of his life and fortune; but at a time when justice is regularly administered, and there exists no necessity for such an organization, he cannot help condemning any organized infraction of the law. We see that a number of highly respectable merchants, some of them our warm friends, have called a meeting of the old Vigilance Committee for nine o'clock this morning. We wish to be understood as most unqualifiedly condemning the movement. Much as we admire the acts of the Vigilance Committee, we have arrived at the conclusion that it can never be revived except under the most extraordinary circumstances, and we declare that the time has not yet come. We refrain from expressing any opinion as to the affray of yesterday. If Mr Casey be guilty, let him be punished. If he be innocent, we will express our conviction to that effect though all the world were against us. But let him have a fair trial."

For a time feeling seemed to run higher against the *Herald* than against Casey. A resolution was offered that every one present should discontinue his patronage of the *Herald*, and use his influence with his friends to do the same. Mr Labatt, then legal reporter, and a member of the Committee, rose and said: "I object to this summary proceeding. Mr Nugent is a gentleman, and does not know what is going on here. I move that we send for him and let him defend himself."

Mr Coleman, learning what was going on, left his post, and entering the hall, likewise endeavored to dissuade them from their purpose.

"I am sorry to disagree with my friends so early," he remarked. "I see no good that can come of it. That the article is no less injudicious on the part of the writer than distasteful to us, there can be no doubt; yet he has the same right which we claim, to his opinion, and to the expression of it in his own way. Such action I hold unbecoming us and our cause; if we are strong enough it is unnecessary; if not, that will not strengthen us." The members thought differently, however, and the resolution passed.

Since the first Vigilance Committee the *Herald* had grown quite partisan in politics and religion. Now its friends were in office, its friends were in Nicaragua, its friends were the roughs, the contractors, the schemers; yet had it suspected the perdition so closely at its heels, it would have sunk its friends deeper than Dante's hell before adopting such a course. A newspaper, though professedly a leader of public opinion, is, it is almost needless to say, the most servile of slaves. It leads by watching narrowly the direction public opinion tends; then circling to the front, it shouts, 'Come on!' No journal of a general character ever yet wittingly suffered martyrdom for a principle. Fanatics may shed ink and fight to the death through the medium of the press; but public, commercial, or business journals are not the stuff martyrs are made of. Furthermore, it was but a slight change in the editor's views that wrought him all the evil which followed. He had heartily espoused the cause of the people in the actions of the first Committee, because, as he said, there was no help for it; now when the necessity no longer exists, as he says, he opposes it—but others thought, and, unfortunately for him, enough so thought to ruin him, that the necessity did still exist.

Among those present were many who had sustained the *Herald* from its beginning. It enjoyed the ex-

clusive patronage of the auctioneers, the most lucrative in business or political circles. The auctioneers, as a class, in wealth, intelligence, and influence stood next to the importers, and were much more numerous and powerful then than subsequently. The method of conducting business at that time was favorable to auctioneers. Large quantities of goods were thrown into the auction-houses, both by shippers from the east and by the importers of San Francisco. Although the patronage of the auctioners was alone sufficient to support a journal, they alone were not sufficiently influential to move public opinion. The importers were the real princes, and although stigmatized by the *Herald* as mercenary and base as compared with the more gentlemanly and chivalrous professions of law, prize-fighting, and politics, they were in fact the most honest and independent class. By no possibility could their motives be construed as selfish or sinister. They coveted neither political power nor the office of hangman, "but," said they, "we are tired of seeing our people shot down in the streets."

In the following notice, which appeared in several of the evening papers the day of its date, and next morning in others, the importers tell the auctioneers in so many words to withdraw their patronage from the *Herald*, and the latter are obliged to obey, whether it pleases them or not:

"San Francisco, May 15, 1856.

"*To the Auctioneers of the City of San Francisco:*—

"Gentlemen: As the undersigned, importers, commission merchants, and jobbers in this city, will not be subscribers to the San Francisco *Herald* after this date, they respectfully request you to advertise your sales in some other of the city papers.

"Flint, Peabody, and Co.; G. B. Post and Co.; Rankin and Co.; J. H. Coghill and Co.; C. A. Gillingham and Co.; R. E. Brewster and Co.; Goodwin and Co.; Turner, Selden, and Co.; Bragg, Rollinson, and Co.; John Saulnier and Co.; A. L. Edwards and Co.; Shaw and Reed; French, Walroth, and Co.; O. R. Wade; E. S. Gross; J. D. Hunt and Co.; D. L. Ross and Co.; Bond and Hale; Earl and Co.; Castle Brothers; Arrington and Co.; Sweetzer, Hutchings, and Co.; Moses Ellis and Co.; G. S. Gladwin and Co.; R. McKee and Co.; Harold Randall and Co.; Stanford Brothers; William T. Coleman and

Co.; Stevens, Baker, and Co.; George T. Peterson and Co.; Gladwin, Hugg, and Co.; Bosworth, Masten, and Co.; A. M. Gilman and Co.; William Langerman and Co.; and two hundred and fifteen others."

The question then arose what should be done with the auctioneers' advertisements. Mr Thomas J. L. Smiley, member of the association of auctioneers, being present, the matter was referred to him. After consulting with his associates, it was determined to transfer them in a mass to the *Alta*, which was done. The consequence was that the *Herald*, which on Thursday was the largest paper in the town, on Friday was the smallest, being obliged through this action and the withdrawal of other patronage to reduce its size one half.

There were but a few lines of it, requiring less than half an hour to write; there was nothing in it so very bad, nothing a powerful and magnanimous association could not afford to pass unnoticed, and yet that little editorial undid the benefits of years of arduous labor, and changed forever the lives of those most interested in it. It is my opinion that the *Herald*, as edited and published up to this time, was the ablest journal this state has ever seen before or since. Mr Nugent, if I may judge, was, up to the day of his undoing, the deepest, clearest, most logical and eloquent journalistic writer ever upon this coast. I say up to this time; for before this he believed in himself, afterward he did not. He beat the air bravely to make himself and others think this was not the fact, yet all the while he knew his position to be false, his logic lying, and himself a most profound hypocrite. No man writes with vigor in opposition to his judgment.

Hiding his regrets under color of bravado as best he may, in the living half of the severed sheet the editor thus strikes back on the morning of the 16th: "We have some words of explanation to say to our readers this morning in regard to the diminished size of the San Francisco *Herald*. It appears that either the language or views in a paragraph in the topics of

yesterday's *Herald* gave offence to a number of persons in this city, who immediately signified their displeasure by withdrawing their advertisements and subscriptions. This is not all. A number of merchants whose course the paper has offended, by thwarting their speculations and otherwise, called upon the auctioneers and others doing business with the *Herald*, and by menace forced them to withdraw their advertisements. This is not all. A number of valorous commercial gentlemen on Front street gathered together a number of the *Heralds* of yesterday morning, and making a pile of them in the street, burned them amid great rejoicings. This is not all. Two hundred and twelve persons yesterday withdrew their subscriptions from the newspaper. The number of other and further evidences of sovereign displeasure and discontent on the part of the disaffected, we have not space to narrate."

Then this, the wisest and most eloquent of California's journalists, grows childish. And no wonder; for hitherto puffed by prosperity, he now begins to feel his mistake, to feel the firm ground which yesterday he trod so proudly giving way beneath his feet. He sees his fatal error and deplores his ruin—to himself only; the surface is still as conceitedly serene as ever. Yet withal he grows childish and talks of freedom of speech and liberty of the press, as withered spinsters, too rickety to do wrong, talk of the rights of woman. How long will the stupid public be deceived by these meaningless terms! meaningless as applied by disputants and wranglers. The press may coerce, but it may not be coerced; it may bully, and blackguard, and throw mud, but once let the public retaliate, and straightway with hands uplifted in holy horror it cries, "Oh! oh! the freedom of the press! the palladium of our liberties!" Hear him: "We now appeal to the citizens of San Francisco and of the state whether or not they are willing that all freedom of speech should be crushed out in this city.

We have exercised the vocation of newspaper editor in San Francisco for the last six years, and we have never yet been controlled. At this late day we fear it would be useless for us to attempt to submit to dictation. If the sacred position of a public journalist is to be degraded by compulsory subservience to the behests of a cabal, we confess we have not stomach for the office. The Front-street merchants may damage the business of the *Herald*, but we beg to assure them they cannot control the sentiments of its editor." A mediæval king, gushing under a sense of his divinity, could not ring it out more royally.

CHAPTER VI.

COMPLETION OF THE ORGANIZATION.

Un gouvernement parvenu au point où il ne peut plus se reformer lui-même, que perdrait-il à être refondu?

Montesquieu.

The letter and spirit of the compact, voluntarily entered into by each individual thus associating, was that a few leading men should undertake the direction of the organization, and that they should be implicitly obeyed by all the other members. The cause seemed to demand of its votaries absolute surrender of self; a relinquishment of individual rights, of individual liberty, of freedom of mind and body, a flinging-in of multitudes of little *egos* to make one great *ego*, greater than St George, and for the extermination of a more monstrous dragon.

Obviously this was necessary. A perfect body has brains and limbs, both essential, and neither of which can perform the functions of the other. A headless, brainless mass of people, acting under impulse alone, is a mob; a hand that will not obey the head without stopping to question is practically paralytic, and worse than useless. This fact was instantly grasped by two thousand citizens, and shortly by six thousand, who, to accomplish their purpose, would command or serve, it made little difference to them which.

This body was composed of all classes and conditions of men. Every nationality, every political and religious sentiment, every trade, profession, and occupation was represented, the only qualifications necessary for admittance being honesty and respectability.

There were Catholics and Protestants, Jews and Gentiles; believers and unbelievers; know-nothings, democrats, republicans; merchants, mechanics, clerks, porters, bankers, barkeepers, draymen, stevedores, lawyers, doctors, butchers, bootblacks, hotel-keepers, and ship-captains. There were Americans and Irishmen; Frenchmen, Germans, Italians, and Spaniards; Englishmen, Welshmen, Scotchmen, and all the rest of the white-skinned races, represented in this anomalous assemblage. Black men and Chinamen, not yet politically bleached, were not regarded as men at all, but when the master stood comfortless on duty as a common soldier through the night, we may be sure the servant was not far distant.

The streams of applicants eager for enrolment were filtered through a committee on qualification, by whom such examination into character was made as was practicable amidst the haste and occupation of the time. Charles P. Duane applied for membership and was refused. A certain coroner, of whom it was averred that he coffined stones and charged the city for burial at the rate allowed for deceased paupers, found his way by some means into the Committee, but did not remain there long.

To the duties of organizing, of preparing lists, of getting books ready, of receiving suggestions and reports, of appointing sub-committees for division of work, of enrolling military companies, providing arms and ammunition, and inaugurating a system of drill, through which discipline enthusiasm might be bridled, the first three days were mainly devoted.

During the first twenty-four hours, as the work of registration progressed, it was seen by mid-day that the numbers were swelling the little hall of the know-nothings to overflowing, and that larger quarters would be required immediately, some fifteen hundred being already enrolled. A committee appointed for the purpose, after canvassing the city, selected the hall of the Turn-Verein society, situated

on Bush street, near Stockton, as the place for the next meeting. To this hall, toward night, the Committee adjourned, to meet again that same evening at eight o'clock.

At this first meeting the committee-men had worked very steadily and rapidly. The work thus far accomplished, according to the record, was as follows: The meeting of May 15th was called a "Meeting of the original Committee of Vigilance," and was held at No. 105½ Sacramento street. At this meeting William T. Coleman was elected president, and James M. Taylor, Clancy J. Dempster, and others, vice-presidents. There were also at the same time chosen a treasurer, secretary *pro tem.*, a sergeant-at-arms, an executive committee consisting of twenty-six members, an examining committee numbering nine, and a police force, twenty-six in number, of which Oscar Smith was chief.

The first business was to provide a suitable room for their meetings, and a committee was appointed for that purpose. It was determined on this occasion, that the executive committee should act on all matters for the general committee and report at some future meeting; that the support of the Committee should be withdrawn from the *Herald* newspaper; that the Committee as a body should visit the county jail at such times as the executive committee might direct, and take thence James P. Casey and Charles Cora, give them a fair trial, and administer such punishment as justice should demand; that a bell should be obtained for the use of the Committee; that the executive committee should report to the general committee, after careful investigation, the names of such persons as the interests of society demanded should leave the state; that the organization, so long as occasion required, should be deemed permanent; that the executive committee should have power to strike from the roll any suspicious or objectionable member: that the general committee meet

at their room at 9 o'clock A. M. and 3 o'clock P. M. each day, to hear the reports of the several committees, and for the transaction of other necessary business; that Turn-Verein Hall be used temporarily for meetings. Members of the Committee unable to serve must be formally excused from serving for a given time.

A subscription list was then opened for the purpose of collecting money to defray general expenses, and $346 collected. The Committee then took a recess until 8 o'clock P. M., at which time progress thus far was reported and the meeting adjourned to 9 o'clock next day.

There was much interesting and important detail at this evening meeting, the first at Turn-Verein Hall, which the records do not show, but which the many copious narrations before me amply supply. One thing in particular, the organization of the military, illustrates the marvellous dexterity with which the ancient ponderous and formal methods of transacting public affairs were simplified by practical common-sense and business tact.

An efficient military organization was a necessity. The sky was belligerent; and even if there was to be no fighting, there was plenty of work for fighting men to do. Arriving at the hall in good time, the Executive found door-keepers in attendance, guards posted, and every precaution taken to prevent intrusion or annoyance. Entering, they saw that the large room was well filled.

After a short consultation it was determined at once to organize the whole association into centuries, or military companies of one hundred each, ten companies to constitute a regiment. Mounting a table, Mr Coleman called the meeting to order. After briefly explaining what he was about to do, he called out:

"Numbers 1 to 100 will please assemble in the south-west corner of the room; numbers 101 to 200

will take the first window; numbers 201 to 300 the next window;" and so on until the members present were separated into fifteen sets.

This was accomplished about as rapidly as the president spoke the words. "Each company will now proceed to elect its own officers," was the next order. "Que les Français se mettent au centre!" the president next called; which practically completed the work. The election of officers by the respective companies was to be regarded as temporary only, and subject to the approval of the Executive Committee. The last order, calling all Frenchmen present to the centre of the room, was given for this reason: In the assemblage was a large French element, many of whom could not speak English; and as it would be awkward for such to serve under officers whose orders they could not understand, it was deemed advisable to bring them all together into one company, regardless of numbers. The French make good soldiers. Many of those present had been well drilled as members of volunteer companies, some had been or were officers, and as a rule they understood military tactics better than any other class. The result proved the wisdom of the measure. The French formed their own companies, sent up their nominations for officers, and were among the most efficient and reliable troops of the Committee. If we remember that these fifteen hundred men, swelled in their numbers to two thousand during the evening, when they rose from their beds that morning were most of them strangers to each other, to their officers, to the association, that they had come hither of their own free-will, moved by interest and instinct, and that they were now organized and officered citizen-soldiery, some of them already drilling for efficient service, we may well marvel at the ready skill displayed by the leaders in this movement.

The next necessity after thus improvising an army was to arm it; and this was done in almost as miraculous a manner. It happened that several thousand

good flintlock muskets, which had cost the government fourteen dollars each, and which had been bought for a trifle by George Law, were then lying in the warehouse. The use of these the Committee hired. Filibustering and aboriginal extinguishments were fashionable in those days; but these weapons were not just then wanted. Our pious revolutionary fathers would have said that providence had provided these arms; latter-day scientists, that they were evolved to meet the exigencies of the race at this stage of its development. The vigilants did not stop to discuss how they came there: that they were there and they could get them was sufficient for them to know. Money was George Law's religion and science. He could scarcely have realized a fortune from this venture, for when the Committee disbanded, members were permitted to keep their guns on payment of one dollar and a quarter each, and many of them did so. Seventy-five thousand dollars were contributed to carry out the measures of the association. Out of this the sum of five thousand dollars was paid for the use for seventy days of these muskets, which had arrived a short time before on the *Adelaide*.

Revenue was raised by the voluntary gifts of members and sympathizers. Members were obliged to give their time and pay certain dues; they usually contributed much more than their dues. Three months' neglect of business and four thousand dollars in money was what Aaron M. Burns paid for the privilege of risking property and life for the general benefit. The expenses of the Committee, as may easily be imagined, were very large, several hundred thousand dollars being collected and disbursed in all. As a rule citizens gave cheerfully. "Men who did not belong to the Committee at all," says Mr Dows, "wealthy houses, merchants, bankers, and others, responded liberally to the demands made upon them for contributions. When we came round to make collections they would inquire how much was their share, and

whatever we said they would draw a check for the amount. Of course they saw the benefit of it, and, though they took no active part in the work of the Committee, they gave it their sympathy and support. We had a large establishment, a regular hotel to feed our people, so to speak, a commissary department, and all that, and large expenses for military purposes, defence, and various other things. A great many who did not care to join as members lent their influence; in case of emergency they were ready to give their assistance." By the 8th of October the association was out of debt.

There was no more disagreeable task than that of raising by subscription, after the work was done and enthusiasm had cooled, the money to liquidate the final indebtedness of the association, which amounted to about ninety thousand dollars. Of necessity the best men, the most patient, devoted, self-sacrificing men, must undertake the deliverance of the association from this burden, or it never would be done. Dempster, Dows, and Crary were appointed a finance committee, and set themselves at work to collect the money. Many responded with alacrity, and wrote their names opposite large sums. Others were more backward, and among them Horace Hawes, who was more free with his sympathy than with his money. Hearing that the canvassers were after him, the astute Horace kept out of their way. Always on the alert, the gentlemen of the finance committee suddenly encountered him one day as they were down among the lumber men.

"Ah, Mr Hawes!" began Dows; "glad to see you! Have been to your office several times, but had not the pleasure of meeting you there. Captain Crary holds in his hand a little book in which he earnestly desires to see your autograph."

"Not a dollar will I give to that!" exclaimed Hawes as Crary placed the subscription book before him.

"O yes you will," said Dows.

"Not a damned dollar!" replied Hawes.

"Tut, tut!" exclaimed Dows; "don't swear about it. I knew I was a damned fool, but I did not think I was a damned liar until now. Let me tell you what I said to these gentlemen but a moment ago: 'Out in San Mateo County, where Hawes and I have estates, they say that he is the meanest man in all those parts, but I have always defended him.' Am I then a fool or a liar?"

Horace fumed and swore fearfully. He cursed Dows, Dempster, and the Committee; but he finally wrote his name down for five hundred dollars.

The Frenchmen of San Francisco as a body were in strong sympathy with the movement, and gave it their hearty support, both in time and money.

Behold, then, the citizens of San Francisco organized and armed, and in hostile attitude to the organized and armed authorities, which then consisted of the military, the militia, and the police. This, together with the formation of numerous committees, the planning of the campaign, and the construction of all the principal machinery essential to the successful working of the largest, most powerful, and efficient popular tribunal known in history. And all in one day!

There was also much other work effected. It was determined that notice should be given certain persons of evil repute to leave the city forthwith, or they would be forced hence. The question of wresting Casey from the hands of the authorities and trying him before a jury of the Committee was fully discussed, but no definite action was then decided upon. The meeting adjourned at half-past eleven. Thus, behind the scenes, closed Thursday, the 15th of May, the day following the one on which James King of William was assassinated.

Friday morning at an early hour the Executive assembled at Turn-Verein Hall and the distribution of labor continued. With an army a military commander was required; and to this important position,

after due consideration, Charles Doane was appointed as marshal and general-in-chief, to receive his orders from the president. Doane proved a good and true officer, and gave almost universal satisfaction throughout the entire campaign. He was a man of almost intuitive military perceptions, as we shall see by his achievements. Colonel Johns, an experienced artillery officer, was detailed to organize the artillery under Doane, which he successfully accomplished. Colonels Ellis, Lippitt, and Olney and others either then or soon after were assigned commands. Drilling was kept up vigorously. The preparation of camp equipage, and all the paraphernalia of a military campaign, commanded early attention. In all these arrangements, such was the intelligence and enthusiasm of the members that soldiers were made of men who three days before hardly knew how to hold a gun.

The division of labor completed, the result was two main departments, comprising the working force of the Committee; that is to say the entire association, as it was all working force, all the formulated power of latent law. First and supreme was the executive committee, or extra-judicial court, which thought and determined, and which was divided into numerous sub-committees; and secondly the general committee, or body of performance. As war was then the theme, the Executive resolved itself into a council, and the general committee into an army. Under this military organization the general committee comprised four departments: the department of the grand marshal, the commissary department, the medical department, connected with which was a hospital, and the police department. When the numbers had reached four thousand, or forty companies, of these were two cavalry, three flying artillery, one marine battery, one pistol company, and the rest infantry. The police companies were in addition to these last divisions.

The police force of the Committee was organized with a chief director and regular policemen. When

complete it numbered two or three hundred men, some of whom were under pay. In their permanent quarters on Sacramento street a part of the building was set off from the military department. The police had access to all parts of the building, which privilege members of the military had not. Mr Watkins was made captain of police, and was assisted by Oscar Smith, and others, at first. "The force was not very large," says Mr Watkins, "probably not more than ten or fifteen men, but we could at any time call any number of men to our aid in an emergency."

Many of the regular city police resigned and joined the vigilant police. The city was patrolled night and day by foot and horse, and was never so well watched before or since. All the military companies except the Marion Rifles and the San Francisco Blues, composed chiefly of sporting men, abandoned their organizations and joined the Committee, prefixing the word 'Independent' to their old name, such as Independent City Guard and Independent National Guard, thus keeping together the old association.

Throughout the whole period drilling was kept up vigorously, and at one time the military force numbered fifty-five hundred fighting men. None of the military, officers or men, received any pay. Those of the police who received pay were for the most part poor men, devoting their entire time to the work, and their pay was about the same as that of the regular city police. There was no military costume stipulated; but it was understood that each, as far as possible, was to dress in dark colors, not necessarily black, and was to wear a frock-coat and cap. Some companies wore belts, some carried cartridge-boxes; each company followed its own inclination in this regard; each company had its own drill-room, where its members worked night and day to accustom themselves to the use of arms, and to acquire skill in military movements. They were in deep and solemn earnest, and they learned rapidly. Far different was their *personnel*

from that ordinarily found in military companies. It was no hireling soldiery.

Although the ranks were composed of men bearing brains accustomed to work and to question, no arguments or discussions were allowed in regard to any order. The penalty of disobedience in this or any other respect was prompt expulsion from the association. Every commander took great pride in his company. Some time after the organization was effected Colonel Olney was accustomed to gather the vigilant forces in regiments and battalions, and hold evening drills at the corner of Battery and Market streets, opposite where then stood the Oriental Hotel. There were four regiments of infantry, of which Colonel Lippitt commanded one, and Pinto another; a battalion and two squadrons of artillery, a rifle battalion, and a pistol battalion, all well organized, officered, and drilled. So excellent became their condition that in their final parade they could not be distinguished from regulars.

Dr Cole was surgeon of vigilant company No. 3. Besides serving professionally he was a good counsellor and an efficient member. When the organization was completed it was ascertained that there were some fifty physicians enrolled in the Committee. An attempt was made to organize a medical corps and establish a professional hospital, but the idea was nipped by the usual professional bickerings. Here we see how men are sometimes made mean and selfish by the very cultivation which should ennoble them; how training in some directions narrows and stultifies the mind it should make more charitable. The failure of harmonious association on the part of the medical fraternity, however, did not prevent the establishing of a hospital within the building. A large hall was set aside for that purpose, with all the appliances of a hospital, devoted to the immediate care of injuries.

A majority of the executive committee could find a verdict, but all decisions and sentences involving

death or banishment were ineffectual until sustained by the board of delegates. If this body confirmed the action of the Executive, such confirmation made such action final; if not, the question went back to the Executive. The board of delegates was appointed by the general committee, and was to the executive committee what the lower legislative house is to the higher, but without the power of legislation. It was composed of three from each company, the captain being one, and the other two members chosen by the company. At one time this body comprised one hundred and eight members. It was intended, moreover, that the board of delegates would act as an advisory body in cases where the executive committee did not wish to assume the entire responsibility. Difficult and serious questions might be brought before them, when it would be impracticable to apply to the main body for general counsel.

The leaders, even during the most intense excitement which at times pervaded every breast, were cool enough to reason that their organization, to be effective, must be wielded with that singleness of purpose, promptness of action, and steadiness of eye upon results which characterize the successful handling of absolute power; while to be permanent and continue submissive, the masses must at least appear to exercise some direct influence in the management, and feel in some degree the burden of responsibility. To subserve these and other ends, the whole body, with the exception of the members needed to act as a police force and perform minor duties, were organized, as we have seen, into an army divided into companies, battalions, and regiments.

Thus with profound sagacity we see these organizers inviting the masses to select by popular vote representatives to this board, which would form a medium of communication between the despotic power conferred upon the Executive and the prompt obedience promised by the members of the general

body. Power to initiate measures was not bestowed on them; but the Executive, solemnly impressed with the weight of responsibility which they had assumed, and determined that their errors should be on the side of mercy rather than the reverse, decreed that neither the death penalty nor sentence of banishment should be enforced upon any criminal until after the evidence in the case had been submitted to the board of delegates, and the verdict of the Executive confirmed by the vote of that body.

Next to General Doane in the military came General Olney. The chief of police received his orders direct from the executive committee. A civilians' committee, of which Aaron M. Burns was chairman, was appointed by the executive committee. It was the duty of this committee to take charge of all prisoners and the duties connected with them. None but members of this committee were permitted to enter the cell of a prisoner; not even a member of the executive committee might do so without special action of that body.

The prominent recorded acts of this same Friday were as follows: Jerome Rice was elected sergeant-at-arms, with a salary of one hundred and fifty dollars a month. He was instructed to provide himself with aids, who were to receive no compensation. The constitution of the Committee of 1851 was unanimously adopted, subject to revision by the executive committee at their leisure. Committees on communications, on arms, on police, and on qualification were then appointed.

A communication was received from the office of the *Alta California* newspaper, that Ira Cole and Bill Lewis had notified that journal that unless the author of a certain communication was given them they would attack the office with a strong force. The matter was referred to the police committee, with power to act.

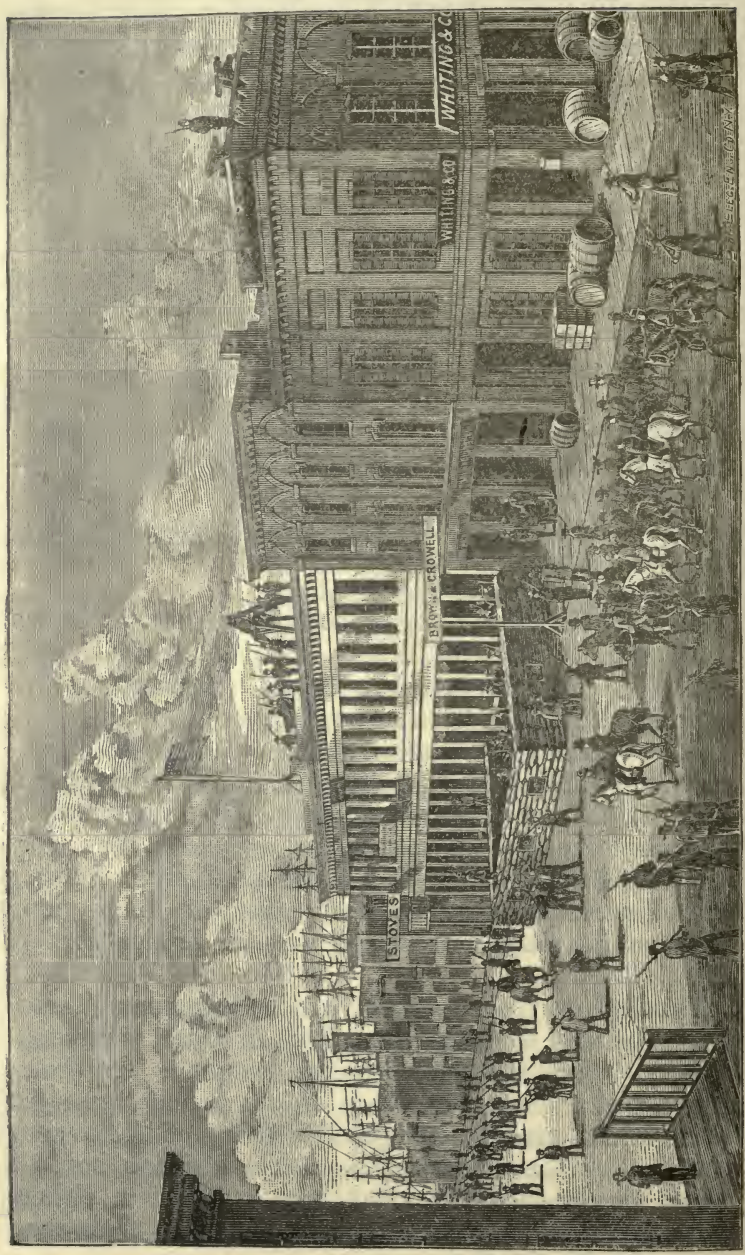
It was further resolved that no city or county offi-

cial should be admitted to membership; that a copy of the constitution should be given the citizens of Oakland, in accordance with their request, that they might form a committee of vigilance to coöperate with the San Francisco Committee. A communication was addressed to David Scannell, sheriff of the county of San Francisco, to the effect that he would be held accountable for the custody of the prisoners then in the county jail. Isaac Bluxome junior was then unanimously elected a member of the Executive Committee, and the record of the meeting was closed by the signature of "No. 33, Secretary."

Early on the morning of Saturday, May 17th, the Committee rooms were besieged by a dense throng, more eager, if possible, to enroll than had been those of the day previous. Five thousand citizens had already joined, and as many more would ere this have been added to the ranks of the Committee could they have been received so fast.

Meanwhile the old appraiser's store, the property of Messrs Truett and Truett, situated on the south side of Sacramento street, between Front and Davis, old number 41, had been secured by the committee on rooms as permanent quarters, and there the association remained until its final disbandment, adjoining rooms being added as occasion required. Thither on this Saturday the Committee moved *en masse;* but this in no wise interfered with the work of organization. The Executive were in occupation of their new quarters at an early hour, and were in session pretty much all the time.

Fort Gunnybags, under which cognomen these rooms became famous, when fully in order presented a unique picture. The principal entrance was from Sacramento street, but there was a private passage from Front street through the store of Atto and Jones. At the entrance was a door-keeper's box, 8, where the password was taken, and stairs on either side led up to the floor above. The first floor was

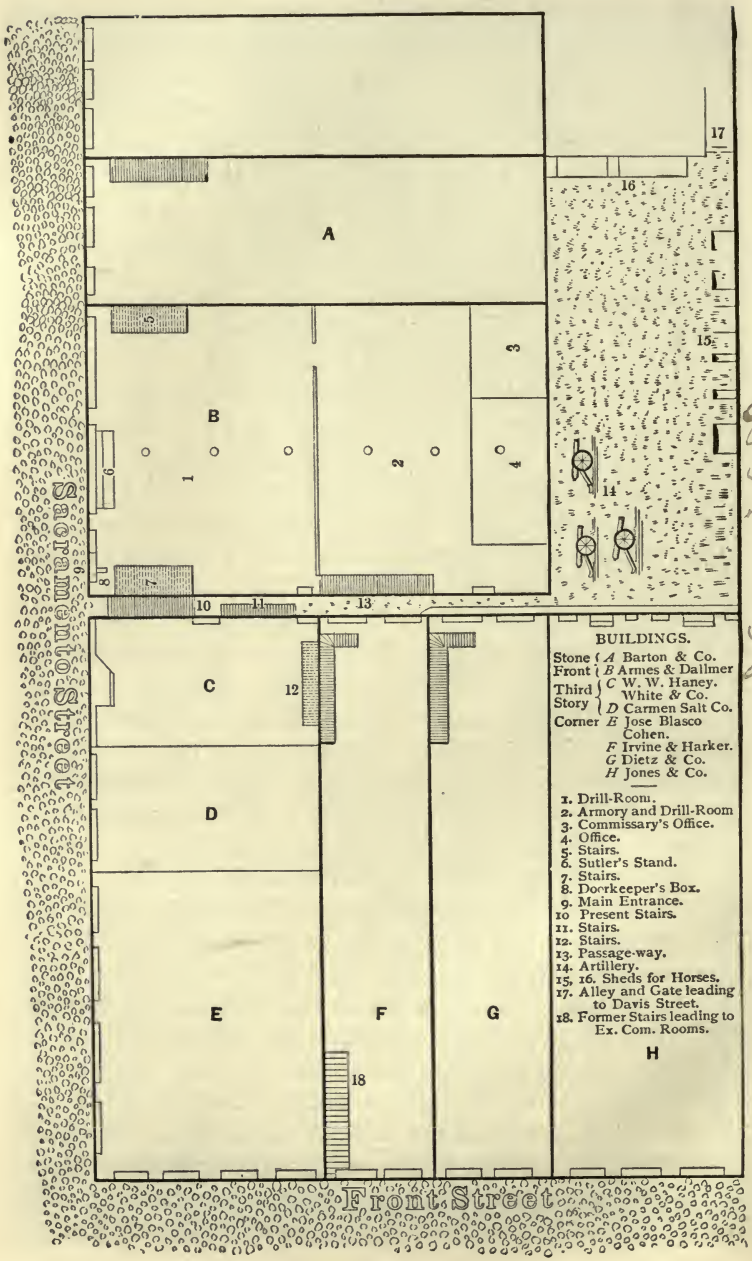

WHITING & CO
WHITING & CO
STOVES
BROWN & CROMWELL

the armory and drill-room—see plan—round the sides of which hung arms, flags, artillery harness, and the bulletin-boards, on which were posted general orders and the notices of the various companies. On the north side was a sutler's stand, 6, where coffee was dispensed to the guard, and on the south side offices were partitioned off for the commissary, 3, and other departments. As if to impress the beholder with the eternity of watchfulness which the vigilance principle demanded, an immense emblematic eye glared from the south-east corner of the room, and attracted the attention of each member as he entered.

Between the stone-front building, A and B, and the three-story brick, C, there was an alley with a stair-way leading to the upper stories of the latter building; and a stair also led from room C, to the second story. The yard was used for horses and artillery, and sheds were erected along its eastern and southern sides. An alley and gate-way, 17, led to Davis street on the south-east corner of the court.

The front part of the second floor, B, was used as a guard-room and armory, and for drilling. Here each company, except such as occupied armories of their own, had a special place assigned its arms, and there they were kept when not in use. Banners and muster-rolls adorned the walls, and here also from one side of the room a large vigilant eye, over the words *Nunquam Dormio,* forever encircled you. Upon a table stood the famous patent ballot-box, with its false bottom and sides partially drawn. Five thousand dollars was offered the Committee for this box; but they had better use for it then. This cunningly contrived specimen of rascality gave them at least a thousand good fighting men

The executive committee rooms were at first located in the south-east corner of this floor, with the military in the room immediately under them. The French Legion ordered arms with such energy, rattling their loose flintlocks, as to cause now and then


A
B
C
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1
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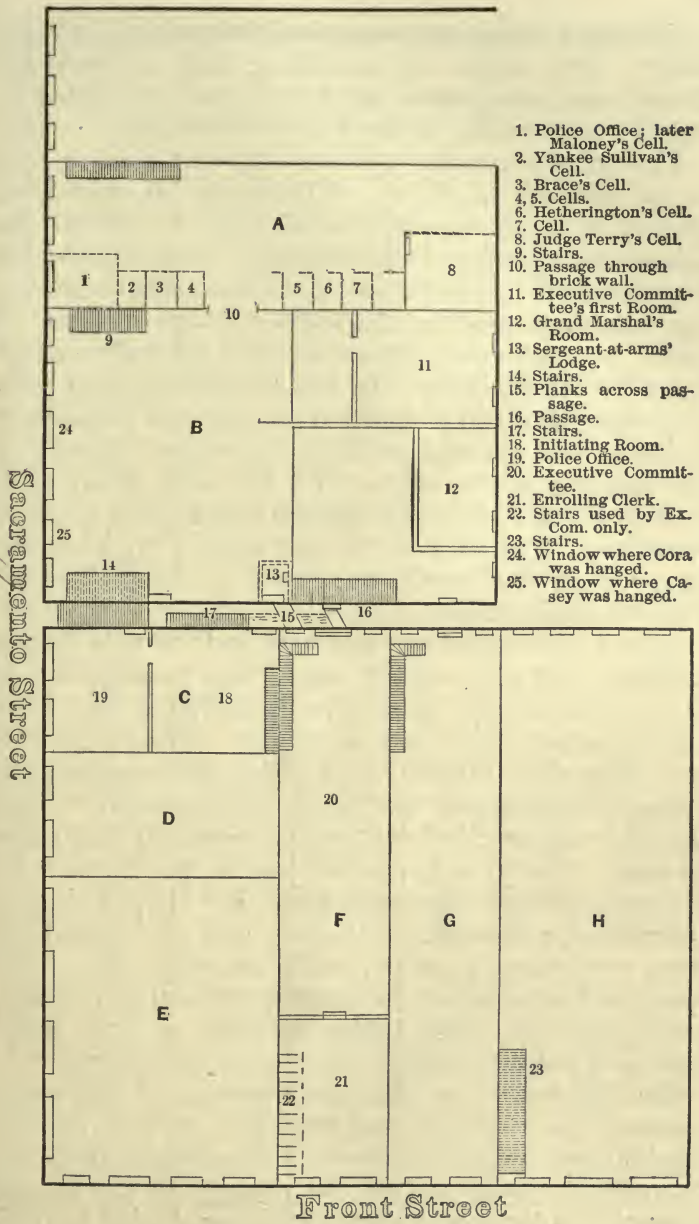
14
15
16
17
18
Washington Street
Front Street
BUILDINGS.
Stone Front { A Barton & Co. B Armes & Dallmer
Third Story { C W. W. Haney. White & Co. D Carmen Salt Co.
Corner E Jose Blasco Cohen. F Irvine & Harker. G Dietz & Co. H Jones & Co.
1. Drill-Room.
2. Armory and Drill-Room
3. Commissary's Office.
4. Office.
5. Stairs.
6. Sutler's Stand.
7. Stairs.
8. Doorkeeper's Box.
9. Main Entrance.
10 Present Stairs.
11. Stairs.
12. Stairs.
13. Passage-way.
14. Artillery.
15, 16. Sheds for Horses.
17. Alley and Gate leading to Davis Street.
18. Former Stairs leading to Ex. Com. Rooms.



1. Police Office; later Maloney's Cell.
2. Yankee Sullivan's Cell.
3. Brace's Cell.
4, 5. Cells.
6. Hetherington's Cell.
7. Cell.
8. Judge Terry's Cell.
9. Stairs.
10. Passage through brick wall.
11. Executive Committee's first Room.
12. Grand Marshal's Room.
13. Sergeant-at-arms' Lodge.
14. Stairs.
15. Planks across passage.
16. Passage.
17. Stairs.
18. Initiating Room.
19. Police Office.
20. Executive Committee.
21. Enrolling Clerk.
22. Stairs used by Ex. Com. only.
23. Stairs.
24. Window where Cora was hanged.
25. Window where Casey was hanged.

a discharge, which sent stray bullets up into the room above. One night an ascending ball entered Mr Dows' chair, whereupon the Committee concluded to remove to room F, on the Front-street side.

The grand marshal's room, 12, was also on the south side of the floor. A passage, 10, had been broken through the brick wall into A, where the police were quartered and cells had been constructed for prisoners. A large cell, 1, in the north-west corner was first used as the office of the director of police, but subsequently served as a place of confinement for Mr Maloney. In one of the adjoining cells, 2, Yankee Sullivan committed suicide, and in another, 3, Brace was confined until his execution. South of the opening in the wall were a few more small cells, in one of which, 6, Hetherington was kept. A larger apartment, 8, in the south-east corner, with an entrance from the north, was used as Judge Terry's place of confinement.

About the centre of the west wall of this floor a platform, 15, was erected across the passageway to the rooms of the executive committee, 20. Simplicity marked this inner sanctuary. There were several long plain tables, round which the members sat during consultations and trials of prisoners. These and some cases filled with papers were all that could be seen. The president's seat was at the north wall, in front of a rack filled with muskets. Before him the secretaries, prosecuting attorney, and vice-presidents were conveniently seated, while on either side of the room, and converging to a point opposite the president, were placed two long tables, at which sat the members, and between which was placed the prisoner.

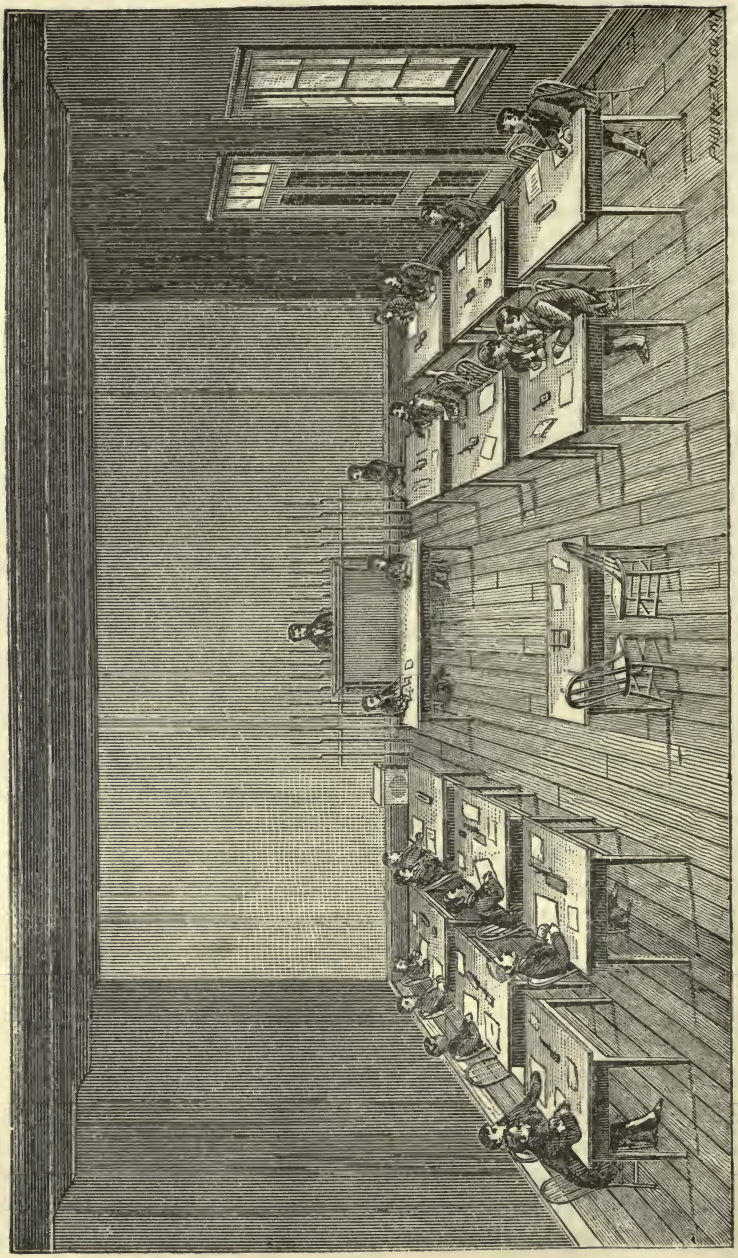
On this floor were also the quarters of the grand marshal, the major-general, brigadier-general, quartermaster, and sergeant-at-arms. The stairs from the Sacramento-street end of the passage to the second floor of this three-story brick building, C, led to initiating rooms, 18, in the rear. The front part of this

floor, 21, was partitioned off and occupied by enrolling clerks.

The police office, 19, opened from the armory into another building on the west side. This was another portion of the same building which contained the apartments of the executive committee. Here were hanging festoons of handcuffs, the pistols of captured criminals, relics of assassins, hats made interesting by bullet-holes wreathed in the ropes which hanged their sometime owners; beside which were bowie-knives, slung-shots, and burglars' tools.

In the third story of this building, immediately over the Executive rooms and the police offices, were the armorer's shop and the hospital. In the former were benches and tools for eight or ten workmen, and in the latter shelves and chests of medicine, and from six to twenty cots, varying with the number of patients. On the roof, supported by a strong framework, hung a large bell, whose terrible taps made the street instantly to swarm with scoundrel-hunters. A large steel triangle was first placed on this roof, which, struck with rapidity and force, was heard to distant parts of the city. But when sounds were wanted which could call according to responsive heart-beats, the triangle, like the classic Monumental bell, was laid aside for more ponderous summons. Likewise on the roof of the corner building, E, were two cannon, placed so as to command the streets either way, and one on the stone-front roof. Also at every port-hole in Fort Gunnybags was a field-piece.

In front of these premises, extending from the walls of the building on either side across the sidewalks, out into the middle of the street, and along the entire stone front were piled to a height of about eight feet gunny bags filled with sand, which were to serve as protection in case of an attack. Gunny bags were then much used by packers and shippers of miners' supplies, as an outer covering and protection to original packages or cotton-sacked goods. Being the most

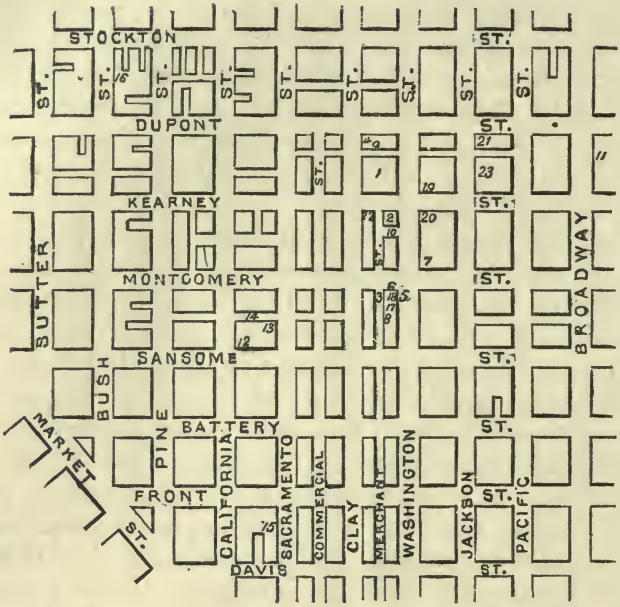


available article for the purpose, immediately the idea seized some member it was acted on, and thereafter they sat behind their fort of gunny bags. As the texture of these sacks was coarse, it was necessary to bag the sand wet and to water the fort frequently, lest the sand should run away. Indeed the fort required more water than the members, both being constitutionally thirsty, more especially before the executive committee ordered that no intoxicating liquors should be used on the premises.

The building of Fort Gunnybags was in this wise: Shortly after the arrest of a noted offender it was reported that five hundred men of chivalry, Texans and kindred sympathizing spirits of the interior, had banded, and had bound themselves by a hot and sanguinary oath to liberate him or be made mince-meat in the attempt. Word was received from Sacramento one day that they were coming down that night. It was further rumored that the opposition had secured two pieces of artillery, which they proposed to plant on Commercial street, and as soon as the Texans landed to open fire upon the building. One told them this who pretended friendship until he had obtained their secret. The Executive called Colonel Olney and others, and communicating to them the fact, asked what preparations should be made in consequence.

After due consultation it was determined that it was necessary to fortify the front, as there was a large open space before the premises extending nearly to Commercial street. The building was sustained by small granite columns, a few cannon-balls striking which, down would come the whole structure. It was deemed a wise precautionary measure to protect the front by a breastwork, and to use for that purpose as the safest and most available defence bags of sand. This, Olney was directed to have done.

Going immediately to Curtis, Olney laid the plan before him, and asked him to take command of the working party and throw up the defences. Curtis



1. Plaza.
2. City Hall and Police Station.
3. Bulletin Publishing Office.
4. Portsmouth House.
5. Bank Exchange.
6. Montgomery Block.
7. Pacific Express Company.
8. Bulletin Editorial Rooms.
9. Monumental Engine House.
10. Dunbar Alley.
11. County Jail.
12. Tehama House.
13. Old No. 105½ Sacramento Street.
14. Leidesdorff Street.
15. Fort Gunnybags—Vigilance Head-quarters.
16. Turn Verein Hall.
17. Alta Office.
18. Herald Office.
19. Bella Union.
20. Palmer, Cook & Company's Bank.
21. Blues Armory.
22. California Exchange.
23. Pennsylvania Engine-house.

assented. He went about it at once in a most practical manner, proposing to make short work of it. First he bought twelve bales of gunny bags, borrowed ten dozen shovels, engaged all the drays and trucks he could secure, and sent all to the sand-hills in Second street, the teamsters to await instructions there. This was all kept strictly private.

Olney then went into the main hall and called out: "Two hundred men with side-arms wanted for special duty!" Twice two hundred promptly responded to the call, thinking only of Terrys, Howards, jails, armories, and the like, not forgetting the five hundred Texans. In making his selection from them a close observer might have noticed that Curtis picked men of bone and sinew, regardless of skill and bravery.

It was now about eight o'clock; and as in goodly array they marched the streets in the dusky twilight with the gallant Curtis their leader, surely, they thought, this is some high emprise upon which we are bent to-night. Out Front street to Market and from Market to Second they went until they were brought face to face with huge hillocks of blank solid sand. What foe was this, my countrymen! Horsemen were there, but of the base ignoble kind; implements, but dirt-digging, paddyish, not of blood-letting tendency. Carts! bags! shovels! What had all this to do with war! Where were the five hundred Texans! Where were those panting to hash or to be hashed! Gradually upon their dazed, distorted minds the truth in its overwhelming reality dawned. Was it the intention of those awful intelligences that sit behind appearances that they should now fall to and form the connecting link between the shovels, sand, bags, and carts there before them? And as a realizing sense of their situation fell upon them they lifted up their two hundred voices with one accord and cried "Sold! sold! sold!" Nevertheless, to work they went with a will, and soon the building was fortified.

Colonel Lippitt, a West Point graduate, was put

in command of the fortifications, and the guns were brought and mounted. In the rear another similar wall of defence was built, and the roof was overspread with riflemen, and two small cannon were placed upon it. The organized band of the interior was by no means a myth. The Texans came that night, though there were not five hundred of them. They were met by their friends. Gladly, in their elegant and chivalric phraseology, would they have minced and hashed the vigilants and have set free their delectable judicial friend; but when they saw how warm a reception had been prepared for them, they thrust their hands deep in their pockets, walked away, whistled, and took a drink. Brave fellows! and exceeding wise withal.

There was a stable at head-quarters where horses were kept constantly saddled and bridled, as in feudal times, ready for the immediate use of belted knights who slept in their harness. The stable consisted of a large yard in the rear of the buildings, having on one side a long shed, on the other out-houses. Cavalry and artillery horses were there kept, as well as those of the mounted patrol and a dozen or so for general use. Most of the artillery was kept in this yard, but there were a few pieces in the interior of the building. The two six-pounders belonging to the California Guard were kept in the armory brightly burnished. Captains of clipper-ships furnished the Committee with many pieces of artillery. Almost every vessel loaned Fort Vigilance a four-pounder while in port. As many as twenty-five pieces of this kind were sometimes in and around head-quarters. Carriages for them were improvised by taking the forewheels of strong wagons and lashing the guns to them. The cavalry was composed in a great measure of the draymen of the city. At an alarm they would leave their loaded carts standing in the middle of the street, strip the harness from their horses, and mounting would dash off and take their places in the line. Next to these were wealthy gen-

tlemen who kept horses, so that here were cart-men and carriage-men side by side in fighting array.

"I have seen at one time," said Mr Smiley, "not less than five men, members of the Vigilance Committee, with muskets in their hands taking their turn at guard, not one of whom was worth less than half a million dollars." And half a million then was equivalent to five millions now. What distorted ideas we all have of men and money! It was very creditable in half-a-million men to stand on guard day and night, rain or shine, to obey orders and be good citizens; but was it not much more creditable for half-hundred-dollar men to do so? Why should not a rich man have patriotism and exercise self-denial when his interest in the welfare of the state is so much greater, pecuniarily, than that of the poor man, whose services he seems to expect for nothing? There being neither honor nor profit in acting as common soldier in the vigilance ranks, Mr Smiley's remark would have been much stronger had he said, "I have seen at one time five men not having a pecuniary interest in San Francisco to the extent of over fifty cents, on guard, defending the right from pure love of right."

In July the Vigilance Committee consisted of 1 battalion, 4 companies of artillery, 1 squadron, 2 troops of dragoons, 4 regiments, and 32 companies of infantry—in all 6000 men under arms, well equipped, and supplied with all the necessary munitions of war.

When the rooms were thrown open for public exhibition the 21st of August, there were then 1900 muskets, 250 rifles, 300 dragoon sabres, 78 Roman sabres, 55 artillery swords, 4 brass six-pounders, 2 iron nine-pounders mounted on ship-carriages, 5 two and four pounders, and harness for some 30 horses. Besides these there was a French portable barricade, a framework on wheels, which could likewise be transformed into a scaling-ladder or litter, and with a bullet-proof mattress.

During the entire *régime* it was wonderful the

promptitude with which the alarm signal was responded to. As a rule, within fifteen minutes from the time the bell was tapped, on any occasion, seven tenths of the entire vigilant forces would be in their places armed ready for battle. A military guard of three or four hundred was required to be on duty in various parts constantly, besides a police force in readiness at head-quarters. In every direction were pickets and spies. The password was often changed every day, and sometimes twice a day.

A new and significant seal was procured, an impression from which was thereafter attached to all documents emanating from the executive committee. It was about two and a half inches in diameter. In the centre, between the words "Committee of Vigilance, San Francisco," was an open eye, from which rays proceeded, and round the whole was inscribed, "Fiat Justitia, Ruat Cœlum. No creed. No party. No Sectional Issues."

The principal features of Saturday's work, as shown by the record, is as follows: First was chosen a committee of five for deliberation on matters of grave

importance, with power to add to their number. A communication was received from the German members of the association requesting that one of their countrymen should be appointed to represent them in the executive committee. In reply to which it was determined that the Germans should be allowed to submit five names, from which the Committee would select one. Major Johnson was officially notified that the Committee would insist that their guard have the same privilege as the guard of the authorities. Charles Doane was confirmed in his election as chief marshal, and was given power to appoint aids. James Ludlow was made assistant secretary, Isaac Bluxome junior being secretary. It was resolved that eleven should constitute a quorum of the executive committee.

The marshal was ordered to report as soon as possible the number and efficiency of his men. E. H. Parker agreed to loan the Committee some muskets and furnish a quantity of ball-cartridges. Each division was directed to appoint a sub-committee to examine its own members and report to the executive committee any who might be regarded as doubtful. The marshal was requested to report how soon he would be ready with his forces to take the jail.

At this meeting it was directed that the grand marshal should transmit the following written message to the sheriff:

"*To David Scannell, Esq.:*—

"DEAR SIR: The Committee of Vigilance of this county have understood that the prisoners in the county jail were armed. We demand of you that such prisoners as are armed shall be immediately disarmed of their weapons, and in case of collision with our body we warn you and those whom you have called around you to beware of the just vengeance of the people, who will insist on their rights. We insist that our guard search prisoners who are said to be armed.

"By order of the Committee. No. 33, *Secretary.*"

The constitution of 1851 was revised to read as follows, and was then adopted as the constitution of 1856:

"WHEREAS, It has become apparent to the citizens of San Francisco that there is no security for life and property, either under the regulations of so-

ciety as it at present exists or under the laws as now administered, and that by the association together of bad characters our ballot-boxes have been stolen and others substituted or stuffed with votes that were never polled, and thereby our elections nullified, our dearest rights violated, and no other method left by which the will of the people can be manifested: therefore, the citizens whose names are hereunto attached do unite themselves into an association for the maintenance of the peace and good order of society, the prevention and punishment of crime, the preservation of our lives and property, and to insure that our ballot-boxes shall hereafter express the actual and unforged will of the majority of our citizens; and we do bind ourselves each unto the other by a solemn oath to do and perform every just and lawful act for the maintenance of law and order, and to sustain the law when faithfully and properly administered. But we are determined that no thief, burglar, incendiary, assassin, ballot-box stuffer, or other disturber of the peace, shall escape punishment, either by the quibbles of the law, the insecurity of prisons, the carelessness or corruption of the police, or a laxity of those who pretend to administer justice; and to secure the objects of this association we do hereby agree:

"First. That the name and style of this association shall be the Committee of Vigilance, for the protection of the ballot-box, the lives, liberty, and property of the citizens and residents of San Francisco. Second. That there shall be rooms for the deliberation of the Committee, at which there shall be some one or more members of the Committee, appointed for that purpose, in constant attendance at all hours of the day and night, to receive the report of any member of the association, or of any person or persons whatsoever, of any act of violence done to the person or property of any citizen of San Francisco; and if, in the judgment of the member or members of the Committee present, it be such an act as justifies or demands the interference of this Committee, either in aiding in the execution of the laws or the prompt and summary punishment of the offender, the Committee shall be at once assembled for the purpose of taking such action as a majority of them, when assembled, shall determine upon. Third. That it shall be the duty of any member or members of the Committee on duty at the Committee rooms, whenever a general assembly of the Committee is deemed necessary, to cause a call to be made in such a manner as shall be found advisable. Fourth. That whereas an executive committee have been chosen by the general committee, it shall be the duty of the said executive committee to deliberate and act upon all important questions, and decide upon the measures necessary to carry out the objects for which this association was formed. Fifth. That whereas this Committee has been formed into subdivisions, the executive committee shall have power to call, when they shall so determine, upon a board of delegates, to consist of three representatives from each division, to confer with them upon matters of vital importance. Sixth. That all matters of detail and government shall be embraced in a code of by-laws. Seventh. That the action of this body shall be entirely and vigorously free from all consideration of, or participation in the merits or demerits, or opinion or acts, of any or all sects, political parties, or sectional divisions in the community; and every class of orderly citizens, of whatever sect, party, or nativity, may become members of this body. No dis-

cussion of political, sectional, or sectarian subjects shall be allowed in the rooms of the association. Eighth. That no person accused before this body shall be punished until after fair and impartial trial and conviction. Ninth. That whenever the general committee have assembled for deliberation the decision of the majority upon any question that may be submitted to them by the executive committee shall be binding upon the whole; *provided*, nevertheless, that when the delegates are deliberating on the punishment to be awarded to any criminals, no vote inflicting the death penalty shall be binding unless passed by two thirds of those present and entitled to vote. Tenth. That all good citizens shall be eligible for admission to this body, under such regulations as may be prescribed by a committee on qualifications; and if any unworthy persons gain admission they shall on due proof be expelled. And believing ourselves to be executors of the will of the majority of our citizens, we do pledge our sacred honor to defend and sustain each other in carrying out the determined action of this Committee at the hazard of our lives and fortunes."

The Vigilance Committee, when fairly organized, stood as follows, though subject to constant change:

William T. Coleman, President.
Thos J. L. Smiley, 1st Vice-President.
J. D. Farwell, 2d Vice-President.
Isaac Bluxome, junior, Secretary.
Charles Ludlow, Assistant Secretary.
James Dows, Treasurer.
William Meyer, Assistant Treasurer.
Charles Doane, Marshal.
Jerome Rice, Sergeant-at-Arms,
James F. Curtis, First Chief of Police.
M. J. Burke, Second Chief of Police.
R. Beverly Cole, Surgeon in Chief.

Executive Committee: William T. Coleman, Thomas J. L. Smiley, J. D. Farwell, Isaac Bluxome, Jr, James Dows, Wm Meyer, Chas Doane, R. M. Jessup, Martin J. Burke, Clancey J. Dempster, Wm H. Tillinghast, Wm Arrington, Eugene Delessert, J. W. Brittan, Miers F. Truett, A. L. Tubbs, C. V. Gillespie, H. S. Brown, E. Gorham, Geo. R. Ward, Calvin Nutting, N. P. Hutchings, Wm T. Reynolds, Wm H. Rogers, E. B. Goddard, Jules David, Hy. M. Hale, A. M. Burns, J. P. Manrow, W. T. Thompson, J. S. Emery, L. Bossange, J. K. Osgood, J. H. Fish, Chas L. Case, F. W. Page, Emile Grisar, O. B. Crary, N. O. Arrington, Samuel T. Thompson, H. J. Labbatt.

CHAPTER VII.

THE EXECUTIVE COMMITTEE OF 1856.

> This forced the stubborn'st, for the cause,
> To cross the cudgels to the laws,
> That what by breaking them't had gain'd
> By their support might be maintain'd.
>
> *Butler, Hudibras.*

The *personnel* of the Executive Committee of 1856 was quite different from that of the Executive Committee of 1851. In the former was more of character and less of circumstance. Society was older, more thoughtful, more sedate, and responsible in 1856 than in 1851, and the leaders of the popular movements of their respective epochs partook of the qualities of the times. The men of 1851 were in the main earnest and efficient, and they did exceedingly well. All honor to them. It was under their impetuous action that the vigilant idea was more fully awakened. Like drowning men struggling to save themselves, they hardly knew what they did; but as is often the case in sudden and impromptu efforts, they adopted a course of action the best possible under the circumstances. Examining their conduct critically, few are the improvements we could suggest, that is if we fully place ourselves in their position. Even at this day, with all our experience, we could teach them little. They were obliged to act quickly. They had neither the time nor the inclination to formulate their conceptions, consider chances, ponder plans, and work to a given rule. Deliberation was not the spirit of the day.

And yet the leaders of 1851 were fluttering adventurers compared with the broader-minded and more deliberative inquisitors of 1856. So quickly were turned the somersets of society in those days that neither thought, purpose, nor population were in the one crisis as in the other. California was no longer beyond the limits of civilization, nor was San Francisco only an embarcadero for miners and traders. To him whose eye was single, nature smiled upon these shores. To him whose heart was pure, God was there. Thousands who had fled the country and its profane doings as from a pestilence had returned with their families, satisfied that for them there was no other spot on earth on which contentedly they might live. To them the whole atmosphere of ambition and intention had changed. Men saw with different eyes; and it was little wonder that objects both hideous and beautiful were now discernible to which hitherto their eyes had been blind.

We cannot do better for a moment than to place side by side the presidents of the two committees, taking the first president of the first Committee and the only president of the second Committee and scrutinizing somewhat their salient characteristics. Nothing can illustrate more clearly the distinguishing features of the two movements, the two presidents being strikingly representative each of his associates and the general temper of the times.

Sam Brannan, men called the first, and sometimes plain Sam. There is no little significance in the name one goes by among one's associates. It implies dignity or the lack of it; morality or the lack of it; piety, temperance, hearty fellowship, wit, learning, modesty, refinement, or the absence of these qualities. In this instance to have employed the term Mister, or Samuel, or Reverend, or Esquire, would have seemed as *mal-apropos* in a friend or companion as to have applied the same expressions of courtesy or respect to a circus

clown or to a watch-dog. Though for a time one of the most prominent men in California, one of the wealthiest—I do not say one of the most highly esteemed—the sobriquet Sam was used instinctively as the synonyme of the individual. It was only once, within my recollection, when he assumed the *rôle* of banker, that these titles of respectability were affected, and then the sensitive public seemed shy of him, and the project was abandoned. Sam Brannan, banker, would have been a tangible reality, however hirsute or churlish he may have been, but Samuel Brannan, Esquire, banker, was a social myth, a far-away incorporeal thing.

When Sam was a saint appellations of reverence were not out of place; but saturated with the avarice and strong drink incident to California, since his arrival here Sam has been no saint. It is true he followed preaching, as a Mormon leader, priest, or prophet, for a short time after landing at San Francisco; but when the enlightened brethren declined the further payment of tithes he cursed them, told them to go to hell, while he went—his way. Monogamous or polygamous doctrines never troubled him much, judging from his flaming devotion to the tender passion; in fact, in the not wholly pleasurable scrutiny of his life and character my labors have forced upon me, judging from the record since 1848 and from practices notorious for more than a quarter of a century, I have often wondered what Sam really did preach when he was a Mormon elder.

But as Casey said of his Sing Sing experiences, Sam's early piety should not now be raked up against him. He was a leader in Israel as long as it paid; and all wise leaders lay down their arms when the remuneration fails, for in religion as in war money is half the battle.

Yet with all these repulsive qualities flung in with other scarcely more palatable ingredients to the composition of this character, the occasion of 1851, as I

have before remarked, needed just such an instrument. Analyze still closer the qualities here present, and see how well they fit the exigency. Principle we regard as a nobler and more desirable quality than unbridled passion; yet principle alone would not have struck the sudden blow that stunned the monster of 1851. An evenly balanced mind wherein justice calmly sits, and soothing piety and all the sweet amenities of life find welcome, we look upon as more lovely than the ruling power of man roused to vindictive hate and bloody revenge; and yet neither justice, piety, nor civility alone would have delivered the city in 1851. The disease was passionate, hateful, bloody; so were the times, and bloody, hateful, passionate must be the cure. To odious, soul-bespattered, spiteful Sam, the commonwealth of California owes much.

Now turn to the president of the 1856 Committee. From a lumber business in St Louis, William T. Coleman came to California in the summer of 1849 gold-hunting; but traffic captured him, first at the tented city of Sacramento, carrying him thence to Placerville, and finally to San Francisco and New York. His early life was the school of business experience: a hand-to-hand conflict with fortune, where lusty strength was guided by wits newly whetted each morning for the day's encounter. During this part of his career I find no trace of questionable transactions, of business aberrations, and those double dealings, not to say fraudulent failures and downright swindles, which stain the early record of so many who have since achieved pecuniary success.

On the contrary, Mr Coleman's life has been one of honorable example from the beginning. Brought into prominence by superior skill and application, both at home and abroad, his good name has ever been a shining mark for calumny, yet always one from which the fiery darts of evil-minded men fell harmless. No man has done more to elevate the standard of commercial morals in California or to strengthen the

commercial credit of San Francisco. During the eastern financial panic of 1857, when confidence was shaken and California's reputation particularly low, almost single-handed Mr Coleman wrought in New York an entire revulsion in feeling concerning Pacific-coast credits. If there be one whom it were safe to hold up as a model Californian, this is the man. Throwing himself into the vortex of adventure with all the ardor of high ambition, and with a mind of that highly tempered metal susceptible of the keenest edge, carefully avoiding meanwhile the shoals upon which so many noble characters were wrecked, who of eight thousand was a fitter chief than he? In honesty, practical sense, and presence of mind he was not surpassed by Themistocles.

Destined like Cæsar to success divine, in him was combined in a remarkable degree moral and physical courage. Without the slightest approach toward rowdyism, without pugilistic proneness in heart or in manner, preferring to the last moment the logic of mind to the logic of muscle, keeping his fine physique under the coolest control of intellect, he could nevertheless, upon the failure of argument, employ the ultimate appeal with consummate force. In the Burdue-Stuart affair, as we have seen, his preparation for the combat which he saw brewing on that Sunday morning was to go home and change his Sunday clothes for his every-day apparel; yet in the hot exercises of that day none were cooler, none mingled more earnestly in the exciting duties, and none did more to quiet the troubled sea.

If there be one quality more detestable than another to the average Californian mind, it is the quality of meanness. A man may be lax in his payments, having a dull sense of honor, of integrity; he may be immoral, dishonest in a dashing way, or even a fire-eater with human blood upon his hands; if he be not niggardly, abject, or socially sordid, all else may be forgiven him. On the other hand, no matter how in-

telligent, or learned, or pious, or wealthy, or temperate; no matter how exact in the fulfilment of all monetary and other obligations, if he be what is currently called mean, reptile-blooded, selfish, soulless, let him be anathema. California is not his country; unless, indeed, as some seem to do, he covets contemptible distinction, and revels in an atmosphere of odium. I do not say that this is as it should be: I say that it is as it is.

Mr Coleman was a man of intellect, of sound practical understanding, of genius if you like, and if his path had led through the more abstract realms of mind he would have made his mark in any one of the various fields of intellectual ambition, of science, statesmanship, or jurisprudence. To a thorough education early acquired he added general information; he was eminently intelligent and skilled in all the ways of commerce.

When work was to be done he was one with the workers; saying not "Go thou," but "Let us go." In non-essentials he was in all respects yielding, but on vital points of policy or principle he was as Gibraltar. He liked to have his own way, as we all do, but his way was usually the best way. When he could not have it, however; when his associates ruled against him, as was frequently the case, he yielded with as good a grace as any man I ever knew. Though conciliatory toward inferiors, and toward those who follow well, should any attempt coercion he could be as haughty as a prince of Persia.

To elevate in these pages any man as the object of idolatry is foreign both to my taste and to my purpose. Friend or foe, I would weigh every individual character claiming attention in the even balance of truth. Doubtless Mr Coleman has his weaknesses, his unpleasing side, as every one has; but I must confess my inability to find those glaring faults which critics delight in. If he has enemies they are few and reticent; or else, belonging to that hybrid class of

politico-pugilists whom he hates, and from whom I do not draw my estimates of character, I hear little of them.

The executive committee comprised the best talent in the city, and that Mr Coleman was the best man in the Committee for the position of president there can be no doubt. And the best talent of San Francisco I hold to be as good as the best of any city on earth. In its *ensemble* it presents a widely different appearance from an association of the best talent of Boston or of London. To the prim and prudish such an assemblage might seem crude and incongruous, might seem profane or intemperate, might seem lacking in a due regard to dress, manners, and forms of speech; but they would tell them that brain power does not depend upon the style of hat, nor the force of language upon its elegance, and that as honest hearts beat under plain buttons as under diamond studs. Not that these men, all of them, lacked cultivation of mind or elegance of manners; but simply, they set no great store upon these things. The question was not How much is he worth, who was his grandfather, what does he know? but What can he do?

In one word, at once comprehensive and individual, these were Californians. There were never men like them before, and never will be again. They were a race *sui generis;* they came, and are gone. Many of them are living to-day, but they are not the men of '56; give to them a new birth, unless creation be born anew with them, they are not their former selves.

Now Mr Coleman, though as thoroughly saturated a Californian as ever lived, was a gentleman in the highest sense of the term. He was possessed of honesty and integrity, which some who call themselves gentlemen lack. He had a bright, clear intellect, trained and burnished, and a well stored mind, always ready for use—qualities which many so-called gentlemen deem superfluous. To qualities of mind which

did him honor were added kindness of heart and genial courtesy.

In physique he presented a figure which would be remarked even in a senate chamber, or in any gathering of cultivated men anywhere. Tall, large, symmetrical in form, with a high intellectual forehead, and eyes of illimitable depth and clearness, his presence was always imposing, and would indeed be felt as awe-inspiring were it not for the visible good-humor that radiates from every feature. He is a man; place him anywhere you will, and he fills the position. Yet with all his commanding presence he drops to the level of his associates, whoever or whatever they may be, with instinctive grace and dexterity. In him unite more than in any other man I ever met the dignity of sincerity with genial affability. He was essentially the most natural of men; there was nothing artificial about him.

So was Mr Brannan natural, caring neither for God nor man; but the two were quite different. In regard to the sterling qualities of heart and mind, the character of Mr Brannan was cast-iron. Burnish it as you would, it was always iron, rough and unyielding, whereas Mr Coleman's character I should liken to a golden nugget, unstamped by conventionalities, but bright and polished as from some freshly split sierra.

Next to Mr Coleman stood Clancey J. Dempster, in some respects the most remarkable man of the movement. A New Yorker, son of a distinguished clergyman, a portion of his early life was spent at Buenos Ayres, where his father had charge of the Protestant missionary station; thence to a business house in Baltimore, and in 1849 to California, to meet and be made a partner by D. L. Ross, because of his business ability.

From his father he seems to have inherited an evenly balanced, logical mind, untiring and persistent energy, and no small degree of literary talent, with a

love of the simple habits of a plain domestic home; from his mother, a noble Christian woman of good Scotch Presbyterian stock, a sweet amiability of temper and unselfish devotion to principle. Small of stature, of light complexion, with a mild blue eye and gentle mien, he is the last person even a close observer would select for an inquisitor or pronounce the most unswerving of a band of stranglers. In 1856 he was twenty-eight, but little more than boy in years, yet a Nestor in wisdom, with marked genius in certain directions. Light a candle and search the city diligently, and you will find no other such man.

He was the moral ideal of vigilance as compared with Coleman, who was the physical; he was the delicate spring that held and regulated, while the latter was the swift and powerful engine that drove the machinery. Call it a reformation, and he was the Melancthon of Coleman's Luther; a revolution, and he was the Franklin of Coleman's Hancock. Both will expend themselves in devotion to a great principle for the public good; and while the actuating motive of the one is noble, the other is absolutely pure.

Close, methodical, painstaking, and industrious in business, thorough and conscientious in all things, Mr Dempster must necessarily measure others by the same standard, and exact from public men the same faithful discharge of duty that is expected from the honest private citizen. In fact, as regards culpability, he sees no difference in the laxity, inefficiency, or dishonesty of a public officer and those of the citizen.

Under provocation he was restrained, always preferring persuasion to force, considerate of others, though firm, persistent, and fearless in maintaining the right. Genial, charitable, companionable, he is ever on the watch to serve and make others happy. Without any of the small or large vices incident to tempestuous experiences, incident particularly to Californians, he enjoys a quiet home and the pleasures of domestic life. He is one who grows upon both a

friend and an enemy: the former finds in him every day more to love, the latter more to fear. The widow, the fatherless, the poor, the distressed, ever find in him true and unostentatious sympathy and aid. Says one of my dictations: "The man who possessed more knowledge of law, of character, and had a better appreciation of the situations of things than any other man, was Mr Dempster." Another calls him a "cool, calculating, brave man; not a bit nervous; you can't frighten him."

By instinct and education he was conservative. Tradition had done more for him, perhaps, than for any of his associates. Though of Scotch puritan stock, he retained his principles, thanks to California, in a great measure free from puritan prejudices. Regard him to-day, and notwithstanding the sulphurous flames of 1856, with freedom of thought on all subjects, with an intellect wholly emancipated from puritan prejudices, he is as strict in his obedience to the laws of God and man, as careful of the rights of his neighbor, as sensitive to the call of duty, whether in the family or in the state, as the purest puritan of them all.

Difficulties seemed only to nerve him to greater effort, and danger to inspire him with greater courage. He was of all others a man for emergencies; for it was then alone he gave full rein to his resources. The strength as well as the beauty of his character lay in the marvellous blending of modest demeanor with unflinching courage, of mildness of speech with force of will, and of that steadfast earnestness which neither discouragement could daunt nor success intoxicate. His deep quiet enthusiasm bordered on the sublime. So unselfish was it that, although able to fill the highest position, he was content with any; although keenly alive to the faults and failures of his associates, there was nothing captious, fault-finding, or unkind in his criticisms. To shirk responsibility; to withhold time, thought, or money when the cause

demanded it, were as unknown to him as obtrusiveness, vanity, or affectation.

In his intercourse with his associates no less than in his conflicts with his antagonists, he was the personification of discretion. His silence was often more powerful than the most ponderous or persuasive words of another. Positive in opinions, unflinching in the performance of what he deemed his duty, and as unyielding to threats as cast-iron to the blows of a lady's fan, there was latent within him a power beyond that of the most noisy demonstration of unloosed and riotous forces. Let the storm rage, whether in the Executive chamber or before the armory of the Blues, the subtile electricity of his nature is sure in the end to equalize the wild antagonisms of less happily balanced minds.

Sometimes we see the rarest wit shine through a melancholy face, sometimes the serenest mind tossed in an unquiet body; but far less often do we find incrusted with so placid an exterior an energy at once volcanic and silent, joined to a keen, analytic, and far-sighted intellect. Given the course his mildness and strength of mind dictated, and the end was clear from the beginning.

He was by far the deepest thinker of them all. Though elegant to preciseness in his literary composition, he was as ready to display his own weaknesses as the kindly Horace or the latter's great imitator, Thackeray. Dempster was chairman of the committee on constitution and by-laws; and the able address of the executive to the general committee on the final disbandment was written chiefly by him, Mr Smiley lending valuable assistance.

If you have something to be done, give it to the busy man; do not give it to the man of leisure. By degrees the cause rested more and more heavily on Dempster's shoulders, just as every responsibility incident to human affairs will shift itself from one to another until it finds the fittest support; so that the

natural shrinking from prominence in affairs which characterized his first appearance gradually wore away, and day by day his influence seemed to broaden. No man had clearer or more direct conceptions of the rights and duties of citizens of a commonwealth to themselves and to each other; and it was when aroused by a sense of wrong committed that he was strongest, most positive, and most efficient. Then the absence of physical vigor was lost sight of, and his companions saw, and society felt, only the mightiness of his mind. Day by day, as fresh duties were laid upon him, he grew; his labors, except in physical application, fertilizing his abilities.

Side by side with Coleman and Dempster stood Truett, and Farwell, and Crary, and Dows, and Smiley, and others, superior in some qualities, inferior in others. Truett and Truett were among the leading merchants of the city in wealth, position, and trade. They were not exactly brothers Cheeryble; Miers F. Truett was vigilance and H. B. Truett rather inclined toward law and order. The former was somewhat southern in his proclivities, the latter northern; the former did not recognize the *duello*, the latter did. Mr Truett, by which designation Mr Miers F. Truett is always meant, was at one time the best business man on Front street. He was afraid of nothing; a man of iron, morally and physically. Two heavy muscular teamsters were one day fighting on the street, when Truett came along and seizing each by the collar held them off at arm's-length, as the school-master separates pugilistic pupils.

In the trial of Terry, the chief justice, before the Committee, which will be presented in due time, Truett was appointed to defend him; and so interested in the prisoner's fate did be become, so unremitting in his labors as advocate, that some believed, and openly alleged, that he had forgotten his duty as Committeeman, and was, indeed, lost to the cause. Says one of

my dictations: "I think he is a man not to be depended upon. There were two or three men who, I am satisfied, used to tell the secrets of the Committee. Things would get out in a few hours. I think Truett was one of them; another I think was Dr Rogers. He was a great friend of Boutwell, the commander of the *Adams*," and so on to still more serious charges. But I am of the opinion that such belief, expressed by a member of the Executive above the suspicion of defaming jealousy, else I would not give it, arises from a simple misapprehension of character. Mr Truett's enthusiasm partook of the chivalrous, and the depth of feeling evinced when the defence of a human life was placed in his hands speaks louder than words the praise of his honesty and humanity.

Captain James D. Farwell arrived in California from Maine by way of Panamá in the spring of 1850, having shipped round Cape Horn the autumn previous the river steamboat *Tehama*. He was a member of the first Vigilance Committee, the safe-stealing by Jenkins occurring very near his store. One of his first exploits in the second Committee was the taking of two field-pieces from the California Guard, to which duty he was detailed.

He was a man of homely integrity, of single directness of thought, stubborn in his sense of duty, and conscientious as before a power greater than that which threatens. One cannot be in the presence of this man long before one is satisfied that it would be as impossible for him to think or act in any cause for effect, for praise, for any sinister end, as for the earth to leave its orbit.

He is made honest; he cannot help it. Of all men he is one of the most conservative, in business, in morals, in fashion. His brain of toughest texture, of practical convolutions, unpolished by hypocrisy and deceit, is the last place where one would look for loose or licentious ideas of good citizenship. Hard in its common-sense, more adamantine still in its conscientious

sense of duty, it is the last place one would look for selfish ambition or lurking designs on the welfare of the city. Listen to him on the subject of his motive in joining the Committee:

"I went into that Committee with as earnest a sense of duty as ever I embarked in anything in my life," he writes in his narrative. "I went into it as a religious duty to society, although I knew I was going antagonistic to the law of my city and state, which every good American looks upon with a great deal of dread, certainly. After embarking in it, as I did, with my whole soul and determination to purge the city of these abominations, I and my companions of the executive committee also, to a man, were governed by the purest motives. We sunk individual self entirely; and our only object was to save the lives and property of the community."

Farwell was particularly efficient in marine matters. His courage was accompanied by that chivalric bearing which works even on an enemy, and that stubborn energy which pauses at nothing short of success. He was the commodore of the organization, as to him were intrusted the little naval expeditions incident to the campaign. He it was who chiefly managed the preparations to take care of Mr Boutwell of the United States ship *John Adams*, in case of need, of which full particulars will be given in due time.

James Dows was one whose intellect and capabilities developed with the rapid evolution of the time. He was the John Randolph of the movement; though in rough-and-readiness he might be likened to Zachary Taylor, in strange and blasphemous diction to Andrew Jackson, while his rich humor, his tall, gaunt form, unswerving truth, and homely, straightforward honesty were not unlike those of Abraham Lincoln. Though his sound sense bristled with eccentricities and his far-sighted judgment was striped with oddities, whenever he chose to speak, which was often and loud, he did not lack for hearers. His voice was

always on the side of right; and his sarcasm was a scourge to evil-doers.

Oliver B. Crary was a man of plain persistent honesty and single-hearted directness in speech and behavior. Declining the position of captain of his company, known in the annals of the epoch as the 'Bloody Seventh,' he accepted the post of first lieutenant, and so served to the end of the ever memorable week at which our narrative is now resting. Soon after the organization of the military the Seventh and Seventeenth companies were merged into one, with George Hossefross as captain. This man was somewhat rough in reputation if not in reality; he had been fireman and militiaman, and as such his experience was of some value, so that notwithstanding these were not the professions which most delighted the qualification committee, especially when the applicant's breath was odorous with politics, he was admitted and given, greatly to his delight, command of the Bloody Seventh.

On one particular night, when deep designs were afloat, officers alone were permitted to stand guard at the Committee rooms. Hossefross was officer of the guard. The Bloody Seventh, the French Legion, and the Citizens' Guard under Captain Ellis, comprised the guard.

Hossefross stationed his lieutenant, Crary, at the door of the Executive Committee, with instructions to let no man pass either way without special orders. That was Crary's post until twelve o'clock. He had not been long on duty when Farwell, who was in the room, attempted to pass out. Up went Crary's gun, which was a Sharp rifle, and the august inquisitor was brought to a stand.

"Take care, Crary!" exclaimed Farwell, motioning aside the murderous weapon. "You know me well enough; I am in haste and must go out."

"I know no man here!" was Crary's reply.

Farwell was obliged to retire. When he returned,

which was shortly afterward, he had the pleasure of informing Crary that he was relieved from duty, and furthermore that he was a member, that moment elected, of the Executive Committee.

Dr R. Beverly Cole, surgeon-general of the Committee, displayed not only public spirit and enthusiasm in the cause of right, but seemed ready to lay aside even those narrowing professional prejudices which, under the name of professional etiquette, seem so ready to sacrifice the comfort, and even the life, of the patient to the jealousy of form or the caprice of feeling. Dr Cole was among the most active in his efforts to consolidate the medical talent in the Committee; but this failing, he ever held himself ready to respond to any call which might be made upon him. It was he who was first at King's bedside, who attended stricken Vigilants, and who watched the life-vanishings of the executed. During the four months of active operation he kept in his stable a horse saddled day and night, that he might the more promptly respond to the vigilance signal.

Tall, strong, straight as a pine, with a piercing black eye and a pronounced manner, Thomas J. L. Smiley was as active as he was bold and successful. During the last month of the organization, particularly after having been elected vice-president, he proved a fine executive officer, and was of great service to the association up to its close. Mr Smiley was one of the few who began at the beginning and continued to the end; who promptly responded to the first tap of the bell on the night of the 10th of June 1851, and continued to grow in efficiency and influence up to the final demonstration, the 18th of August 1856. He was on the war committee part of the time, and in the grandest achievement of the crusade; he was second to none in activity and bravery. Scouring the town at the head of a chosen company, hunting the enemy in their retreat, seizing and bringing them to head-quarters when found, he felt like one in battle,

he said—all thought of danger being lost in the courage of animal excitement. In his dealings with prisoners he was always on the side of kindness when kindness did not interfere with duty. "Tom Smiley," says a member of the Executive in his dictation, "was very influential, very active and useful, though not of very good judgment."

And again, "Smiley I don't think had a well balanced mind; talked a great deal, was very excitable, but ready and prompt to carry out any measure the Committee thought necessary." The opinions of strong-minded, independent, brusque associates, however, when expressed of each other, should always be taken with allowance.

Mr Gillespie did a large amount of valuable work in his position as chairman of the committee on evidence, and it was of that kind which made but little display. Of striking physique, with fine intellectual features, and an affable and polite demeanor, many of his hard-thinking and rough-working associates regarded him in the light of a pleasant, inoffensive gentleman, of no pronounced opinion or ability. But his labor consisted of quiet researches and secret investigations rather than brilliant displays of skill or learning, and as it was usually performed alone, his nearest neighbor knew not the extent of it.

Richard M. Jessup labored side by side with Mr Coleman in more perfect harmony, perhaps, than any other member. And while in unison with him in purpose and in action, he was ready to waive the honors; so that, being a man of marked respectability in the community, he was enabled to render the cause much assistance. Toward the latter part of the *régime* he became infected with politics and retired from the Committee.

The duties and responsibilities of Secretary Bluxome were very different in the second Committee from those of the first. Counsellor as well as scribe, custodian of the archives as well as of all the unwritten

secrets of the association, he served this his second long term with a steady patience which places him second to none in point of patriotism of the pure and unselfish quality.

J. W. Brittan was a good man; not so profound as Dempster, nor so practical as Coleman, nor yet so impulsive as Truett, but cool, firm, and unimpassioned almost as stone. Like Jessup, he was a devout follower of the president, evincing, as Coleman says, "a readiness to take any direction that I might indicate, relying upon my judgment and previous consideration without explanation."

The French element was represented by Émile Grisar, a bold, true man, clear-headed, and an able thinker and speaker and ready worker.

E. B. Goddard, the only gray-haired man in the Executive, was eminently conscientious and prudent. Doctor Burke was a patient and enthusiastic worker. A. L. Tubbs, F. W. Page, and W. H. Tillinghast were among the best men in the Committee. All these and many others did their quota of work, took their share of the responsibility, and commended themselves to the approval of their associates and to that of the community.

Then there were fiery little George Ward, holding over from the first Committee, and Thompson, and Tillinghast, and many others—I cannot analyze their characters, all of them, pleasing as is the task. "These men," writes Mr Dempster, "and others, who long ago laid down to rest, and perhaps are almost forgotten by the community for which they perilled more than life, were unconscious heroes, instinct with such love of justice and the right, that sacrifices and perils encountered in the cause conferred only pleasure, and perhaps scarcely increased their own self-respect. I have never seen in any other organization with which I have been connected such general devotion to duty, such unselfish indifference to the honors or the praises which might be obtained, or so little

of that jealous segregation into cliques and indulgence in little animosities."

In all the Committee there was no man better fitted to his place than Marshal Doane, the central figure of the military. And I doubt if in the annals of human warfare an example can be found of a civilian unexpectedly called to general three thousand unexpectedly called civilians with such a showing as that of the Sunday next after the assassination. It was this quickness of perception and adaptability of resources to necessity, the instantaneous and intuitive knowledge of cure, absorbed as it were from the disease itself, that claims our highest admiration throughout this entire movement; and in these respects none may claim higher distinction than Marshal Doane. Whether it was that his success operated in his eyes as a magnifying mirror, leading to the discovery in himself of yet another new and wonderful talent which this flush of popularity alone could bring to its unfolding, or whether mercenary ambition marked him for its own, I know not; but much as I admire the man, much as San Francisco and this history are indebted to him for beneficial and brilliant services, truth compels me to uncover his character, and disclose the only blot I find upon it, a blot of such discoloration that had all the members of this fraternity been so tinctured, or any considerable portion of them, perdition would have been the consequence.

Unfortunately, toward the latter part of the campaign this marvellous organizer and truly worthy and efficient man lost that singleness of purpose which was the charm and sanctification of the movement, became selfish, and sought to prostitute his good work and position in the Committee for personal advantage. In a word, he sold himself, his popularity, his good name for office. He was elected sheriff of the city and county of San Francisco, though not until after the disbandment of the Committee, and he made an

excellent officer. This in itself was not so heinous an offence, had he not thought of it while in the Committee, and there prostituted himself, his strength and influence, to politics.

I do not say that there were no others of the Executive who were not above using the hearts of the people and the holiness of their cause as the stepping-stone to place, provided the office was high enough. I do not say that there were not those who would not have declined the presidency of the United States had it been offered them; but I do say that as a body there never before were fifty men having in their hands the political power wielded by these fifty who laid it down so gracefully, thus vindicating their high and holy integrity throughout all time. Had the tendency of the Executive been sinister, such as are almost all bodies in any wise related to our political system, especially those loud in their professions of disinterested patriotism and public good, in the place of a moral revolution this would have been a moral rebellion; instead of a reform it would have been a riot; instead of vigilance, the highest and holiest principle of associated humanity, it would have been mobocracy the lowest and most profane. Further than this, he who served in this Committee and accepted office in consequence of it, gave the lie to every protestation, and displayed the presence of only the shadow of a man.

Mr Coleman takes the right view of it when he says: "While we openly held and declared that it was unbecoming in any prominent member of the Committee to entertain any such ulterior views, and unworthy of them, and unjust to the whole Committee to ever afterward accept office, or directly or indirectly accept office or gain of any kind arising out of or from any of the labors or the results of the labors of that Committee, yet it was of course impossible to bind or even control what should come after the dissolution or disbandment of our organization, and we

could only look to it as best we might that while we were together no power or position should be prostituted to such end, so far as lay within us to discover and prevent it. I never blamed Doane for accepting office afterward, or rather never censured him with any severity—had no ill-feeling about the matter. It might be considered rather a fine-drawn assumption on my part, a superlatively chivalric view of the matter, without a right to expect so much; but still I sincerely regretted the fact of his or any other prominent member accepting any office of profit, because we really undertook the work without a selfish end or aim in view, and the large body strictly, rigidly, and tenaciously held to that view, and to that rule of action, and it was one of the sources of our chiefest pride that we could truly say that all we did was for the good of society, and of morality, and that we gave our time, efforts, and money, and risked all that we had in the world without ever having any share in the results, directly or indirectly, not held by those who were least connected with and farthest removed from any participation in our operations."

Under Doane was a score as good officers, as gallant, brave, and devoted men as ever drew blade for the right, among whom were Olney, Ellis, Curtis, Pinto, Johns, Ebbitts, Lippitt, and Bartlett. The whole rank and file were composed of men seldom seen playing soldier, and though many of them had never before shouldered a musket, such were their intelligence and zeal that a few days' vigorous and attentive drill was sufficient to make of them efficient men-killers.

Many served in the ranks as common soldiers who would not accept seats in the Executive though entitled thereto in every respect by wealth, intelligence, and respectability. Of such was Thomas H. Selby, a merchant of the Coleman stamp, true and pure as the all-regulating sun, afterward mayor of San Francisco, and in all his relations, private and social, beyond

the suspicion of reproach. Of such were John O. Earl, Samuel Soulé, George H. Howard, Charles R. Story, S. P. Webb, W. W. Montague, H. S. Gates, and a thousand others.

Many more there were whose names with equal propriety I might mention; but enough, I trust, has been given to enable the reader to form a just conception of the character and quality of the Executive Committee. In every association, even of able men, there are some who fail in that efficiency which commands admiration; and this not through lack of enthusiasm, or even necessarily of ability, for such may be ill-fitted to duties or hampered in the discharge of them. Able men are not all equally able in different departments of usefulness. There is as much genius displayed in adjusting character and talents to the work to be performed as in the performance of a great work.

There were in the Executive Committee two distinct elements, the only abstract principles which at any time divided the members of the association or any committee of the association. Indeed politics, religion, morality, and all the great questions affecting society being strictly eschewed, all except the one great question of crime and its punishment, there was really nothing else to divide upon than simply as to the intensity of the reform. "In a body of that kind," says one of the Executive, "there are certain always ready to hang any man; and half a dozen have to be restraining the hot-headed portion." There was the radical element and the conservative element, the former in favor of inflicting extreme punishment on all offenders without too careful inquiry into the nature and extent of guilt and the legal penalty attached to it, the other taking no step except after the most careful consideration, and inflicting no penalty beyond that applied by law, and that only after the guilt of the criminal was established beyond a peradventure. Fortunately the conservatives were sufficiently in the majority to hold the others in check,

otherwise their bark would have split upon the rocks before well outside the harbor.

The leaders of the Committee found that they had undertaken a task which taxed their utmost wisdom and energy; but they appear never to have faltered in council, never to have hesitated in the field. Throughout all their trials, their perils, their temptations to excess in the use of almost unlimited power, their associates honored them with unswerving faith and an adherence which deserved the triumphant success that finally crowned their efforts; a success, however, won only after a struggle between the forces of the Committee and the civil and military powers which at one time had well nigh assumed the proportions of a revolution.

Under their auspices an extraordinary and complete system of police with magical celerity sprang into existence over the entire country. In tracking crime their scent was sure, their aim unerring. They undertook nothing that they did not execute; they made no mistakes in their arrests and executions. No innocent man suffered at their hands. Prudence and moderation characterized their conflict with crime on the one side and law on the other. Four only of the worst criminals the San Francisco Committee exterminated, the rest they drove from the country—an almost bloodless victory when we consider the result accomplished. Posterity will rise in homage to the majesty of mind displayed on these occasions.

"They manifested a marvellous power to control excited multitudes, to develop their capacities, and turn their energies into channels of action," says Mr Dempster, who, though he was one of them, saw further into them, into their nature and design, into their little ambitions and their large unselfishness, than any other. They had no time for long discussions on the sacredness of law. "Some questions will improve by keeping" with Daniel Webster they used

to say. The London *Times* asserted of them, after their work was done, that they had shown sufficient ability to found a state organization, a nation, if circumstances had demanded its exercise.

Stolid physical bravery most of them possessed, some in a remarkable degree. At the thundering at once of a hundred Sinais I should not expect to see them quail. But far above and immeasurably superior in its texture to their physical courage was their high moral courage. It needed nerve for the most law-abiding of men to break the law, to arraign the law and place it on trial for dereliction of duty, to incarcerate and try for his life the highest judicial official, to seize and hold with a grasp of iron the state government, and respectfully to warn off federal authority. For those to do this who had honor, households, reputation, wealth, love of God, and love of country at stake, I say called up a courage superior to that of the savage who taunts his torturing enemy or of the fanatic who to win heaven submits his body to the flames.

As time and events manifested conclusively that the Committee desired the public good and not private or individual advantage, public opinion ranged itself on their side; and before they voluntarily resigned the power which appeared resistless, and disbanded their forces, a strong majority of the people of California sympathized with their efforts and rejoiced in their success.

Though theirs was the amplest influence, as a rule they were free from ambition's crime; moderate, resolute, the strongest were the least pretending, being no less wise in council than efficient in action. Theirs was the wisdom of common-sense; theirs the greatness of simplicity. All the people knew them, and believed in them, believed them to be outside the pool of brain-fuddling forms, knew them as men of iron will and iron nerve, true to themselves and to occasion. It seemed that almost on the instant circumstances

had purged them of their traditional superstitions, even as Theodorus, Rabelais' royal physician, who, to cure Gargantua of the wickedness of his heart and the perversity of his brain, purged him canonically, so that he might forget all he had learned from other teachers.

While rigidly restricting themselves in the exercise of the power assumed, the leaders of the movement sought by every means in their power to impress upon their followers that the great duty of the organization was to execute the spirit of the laws which had so long been defied; that the existence of the Committee sprang from a universal determination that these should thenceforth be enforced, and that their duties must be limited to a dispassionate and impartial outpouring of the essence of law which might not be dissipated by suicidal adherence to form, when it was found that such action defeated that protection of life, liberty, and property which law is established to maintain.

The acts of the executive committee were singularly free from blunders. I search in vain for one serious error of judgment, or for a signal failure in the attempted execution of their purpose. From their organization to their disbandment, wisdom, coolness, and courage characterized all their actions.

It is easy to magnify motives which actuate either good or evil results. Always I strive to deliver myself from this propensity. And yet it seems to me that the candid observer of heroic actions which illumine the highways of history fails to discover higher or purer considerations than those which governed these men. The lust of power was not apparent; for what is power where identity is lost? Honor? They shrank from it, and swore to each other a solemn oath that their deeds should be secret. Wealth? Their labors cost them much time and money, with no hope of any return, not participated in by the humblest citizen, unless, indeed, it should be in the shape of the anathemas of those who opposed them. I see no-

where in history, I say, greater unselfishness. You do not find it in religion, in missionary enterprise, in any kind of proselytism. All religion, even that of the meek and lowly Jesus, is based upon selfishness: Do good and receive the reward. Patriotism, which covers hypocrisy, is the lowest form of selfishness; The open and honest money-maker is a nobleman beside him who plays upon the unselfish instincts of his fellows for his own selfishness.

Patriots, indeed! I would not insult these men by calling them patriots. What is a patriot? One who loves himself supremely, and his country a little because he happened to be born in it. One who in seeking public favor seeks not the public good, but Iago-like, himself. Patriotism is but a reflex form of self-love. The Frenchman loves himself and France. To him art, science, and literature are French. Great men are Frenchmen, great thoughts and learning are French thoughts and French learning. Blot from the earth Paris, and from the earth civilization is blotted; sink France, and there is no world left. The German hates Frenchmen and France, but loves Germans and Germany. His talk is of Germany, her unity, her philosophy, her science, church, and army; and so on. The purity of purpose, the holy and unselfish considerations which urged forward these men of vigilance, were as much superior to what is commonly called patriotism as is Christ superior to Belial. Socrates says a wise man keeps out of public business. There were some as wise as Socrates in the Executive Committee. They now held power, but it was only in trust. *Mensura juris vis erat.* This they believed, that power was the measure of right, and that it was not their own but the people's. Martyrs are made of tough fibre.

Here was true nobility, true godliness, true manliness. Throughout their whole life, long after a knowledge of their secrets ceased to expose them to any risk, and when among their fellow-citizens it was counted

an honor to have been ranked among the number, each seemed to shrink from prominence in the affair, or to take to himself any special credit for any special act. "No," each spoke for himself, "I was but one in the great assembly, and I will not do hundreds injustice by arrogating to myself credit, or appearing more conspicuous than they, before the world."

Coleman, Dempster, Truett! and the rest, long may your memories be fragrant in the hearts of Californians; long may your names be held in grateful remembrance by generations to come! As gold to dross, in the evolutions of refining civilization your pure purposes shall stand beside the so-called patriotism of selfish statesmen; as glorious sunlight to sombre night, beside the piety of cant, the record of your deeds shall shed their radiance, blessing your children and your children's children till day and night are one!

CHAPTER VIII.

THE LAW AND ORDER PARTY.

A long train of these practices has at length unwillingly convinced me that there is something behind the throne greater than the king himself.

William Pitt.

The term Law and Order Party is often applied to opposers of Popular Tribunals throughout this work. It may be well more clearly to define the term as herein used, and also the character of the persons composing it.

The party is never a palpable organization like the Vigilance Committee; it is seldom an association; yet the anteposition, which commonly takes upon itself this name, is always present wherever there is a popular tribunal. It is the natural enemy of any idea or principle not measured by stereotyped forms. In the assumption of this name it implies that its members believe in and conform their conduct, whatsoever the emergency, strictly to the existing laws, and that by so doing alone can order be maintained in the community. *Per contra*, popular tribunals, by breaking the law, engender only disorder. This position is stoutly maintained; as to the honesty and intelligence of those so holding, I leave it to the reader of these pages to judge.

But before questioning the sincerity or wisdom of those who style themselves promoters of law and order *par excellence*, let us glance for a moment at the *personnel* of the respective parties.

Committees of vigilance were formed for the most part of men of substance and character, of those

having some stake in the commonwealth. They were men of property, of family: merchants, mechanics, farmers, miners—workingmen all. In their ranks were found producers, who by the labor of their hands feed the world; those of industrial and commercial pursuits; who by their brain build cities and drive forward civilization. This is the class upon which crime preys; this is the class which must support not only the criminals themselves, but courts and their satellites tolerated for the suppression of crime. From this class governors, legislators, and judges draw their pay; from this class corrupt officials steal. Crime fattens on the fruits of industry, and lawyers fatten on crime. The interests of the industrial class lie not on the side of government, unless it be good government. They were the bone and sinew of the land, these men of vigilance, whose traditions fostered a love of truth, justice, and morality, and whose future depended upon their keeping these things inviolate.

On the other hand, the law and order party was composed of non-producers, for the most part respectable members of society, but who, in common with criminals, obtained support not by adding to the material wealth of the community, but by defending producers from the sharks and vultures that prey upon them. These were office-holders, judges, lawyers, sheriffs, policemen, jail-keepers, politicians, law-makers, and such nondescript subalterns, contractors, demagogues, manipulators of elections, and hangers-on as found food or profit in the law. Military men must likewise support the government, else their occupation is gone. These with their associates, sympathizers, and organs ranged themselves on the side of what they pleased to call law and order, and opposed any interference of the industrial class in the affairs of government.

I do not say that this distinction was arbitrary or universal. Many lawyers, preferring purity to old-time conventionalities, took sides with the reform

party; many officers of the law, military men, and government employés resigned their positions and joined the ranks of the popular tribunal. But in the main, the material composing the two parties was such as I have described. The public press, following the direction of its own interests, likewise divided, some taking their stand on one side and some on the other.

There was yet another sentiment that strongly influenced this division of opinion as to the right and fitness of this uprising. It so happened that the commercial and industrial interests of the country at that time were mostly in the hands of those born and educated in the northern states of the republic, while the affairs of government were more particularly looked after by those who had come hither from the south. Northerners and foreigners naturally took to work and trade, while southerners as naturally became politicians, ran for office, practised law, and filled official positions. Following their chivalrous proclivities, they lightly esteemed labor, and held law, politics, and like professions the only occupations befitting a gentleman. Hence it was, when shopkeepers, clerks, draymen, carpenters, and blacksmiths questioned the policy of these natural lords of government, they were looked upon as impertinent fellows, meddlers in matters which did not concern them. When they went further, and dared to lay their horny hand upon the sacred altar of justice, they were denounced as impious lawbreakers, violators of constitutional liberty, defamers of time-honored tenets, profane, and traitorous. On the other hand, the practical men of work and business asserted most emphatically that if law and law officers could not and would not suppress crime they would do it themselves, in spite of statutes, custom, or anything else. Though cursed by factions, the people are the power, and if roused by rank accumulated wrongs they vindicate it.

The contest waged at this time between vigilance

and law and order was more bitter than we can now well realize. Spreading to a greater or less degree among all the communities of the Pacific slope, it separated friends, divided families, and armed brother against brother in deadly hostility. All nature gyrates to the right; the opposers of vigilance were now twisting sadly to the left.

I do not wish to be understood as charging hypocrisy upon all those opposing popular tribunals. Those who live by the law, the high-priests of legal tribunals whose fires cannot be kept burning but by devout and humble worshippers, it is difficult for such as these always to see clearly, least of all to allow the profane rabble to tamper with their deity. Hence there was present honest difference of opinion, or what was called opinion, what perhaps the several opponents really believed to be opinion. For much of that which people call opinion, much of that which they really believe to be honest conviction, is nothing more than passion, prejudice, or partisan bias, based on self-interest, pride, education, and association. Evidence, and the careful balancing of the right and wrong of a question, do not enter into it at all. Men will to believe right that which accords with their interest, which is not belief, but desire. Biassed by interest or feeling, it is impossible for the merchant to look upon a matter with the eyes of the lawyer, or the man of conservative ideas with those of a reformer. Opinions are warped even in the ablest minds by the most trivial circumstances. Labor and capital, coöperative and private enterprise, employers and employed, agriculture and commerce, look upon questions from different sides, and arrive at decisions often diametrically opposed, honest, but erroneous.

And yet it is passing strange, if these men were honest and intelligent, that they could not see the falsity of their position, the inconsistency between their doctrine and their deeds. For of all members of the community these law and order men were the

first to right their wrongs, and break any law that did not suit them.

Law and order: that was the name they gave it. A well sounding name, especially in the mouths of rogues and politicians. But here on this coast had been law without order for years, and at last the people were determined to have order, even at the sacrifice, if necessary, of the forms of law. Law had become criminal, and must be put upon trial by the people for dereliction of duty. Good men left their business to perform jury duty reluctantly; straw-bail and false witnesses were plenty and cheap. The public mind, furthermore, seems to have become calloused, and the sensibilities even of the better class blunted; pistols, knives, and slung-shots had become to be regarded as adjuncts of life in California, if not a necessity, and their use now and then was expected as a matter of course. Respectable citizens, even those who felt it a conscientious duty, in common with all good men, to attend the polls on election day and cast their vote in their country's interests, kept away on account of the rowdyism and fighting which rendered the place unsafe.

"Law or no law," exclaim the men of vigilance, "the cause is just because it is necessary." "However pure your motives," return the men of law and order, "however necessary your stringent measures, you are warranted by no law, your acts are without foundation in right; therefore when you take human life, though it be of an open and notorious foe of society, you do a fearful wrong, you undermine the edifice of social order, you commit murder." "We have committed various acts of insurrection," continue the men of vigilance, "in assembling in numbers to accomplish by force measures not sanctioned by our written laws, in taking a large share of criminal jurisprudence into our hands without warrant, and in opposition to the regular constituted tribunals; in nullifying legal processes; in establishing a court whose jurisdiction

is bounded by its own discretion. But although we have erected a new engine, we have not broken the old one."

Expediency and illegality are the arguments *pro et con.* Whatsoever the condition of a community, howsoever democratic or despotic its government, whether it be based on bills of rights, articles of confederation, specific charter, or time-honored custom, should that government fail properly to fulfil its functions, its obligations, its agreements, the people not only possess the right, but it is their bounden duty to throw it off and fit to themselves a new form if they can. Between the government and the people there is an implied if not a written agreement; laws are established which it is the duty of the people to obey and of the government to enforce. If the people break the laws the government may rightly punish; if the government fails to fulfil its part of the compact, the people have the same right to punish the government. To say that the people break the law in throwing off an incompetent government, is to hold one side to the compact and not the other. So say the men of vigilance.

In all their arguments the advocates of law and order assume that law is right because it is law, that obedience to existing law is obligatory, however unrighteous the law, or by whomsoever made; which makes liberty a crime and any opposition to tyranny and oppression an unpardonable sin. All nations, from the beginning of history, have exercised the right of revolution whether they possessed such a right or not, just as the appeal to arms has always been the *dernier ressort* of diplomacy. Civil law may be held in abeyance by military law whenever necessity demands it; it is therefore not infallible. Like the laws of nature, religious and political institutions must of necessity embody elements of self-preservation, else they fall of their own weight. This is truth; all else is falsity. And the evidence of truth

is that it remains, that it cannot die. Laws of society, therefore, when, how, or by whomsoever made, are simply regulations for the preservation of society. Enfolding a preponderating element of self-destruction, they cannot live.

Mr Herbert Spencer relates a circumstance coming under his notice where "two law-makers propose to support the law by breaking the law." It is a trifle; something of almost daily occurrence. Two members of parliament become so excited over certain letters concerning the rules for the regulation of Hyde Park as to propose arbitrarily to punish the writer of them. Do we not see the most disgraceful scenes upon the floors of every legislative hall? It is not necessary to go to the capitals of our western states to witness the lawlessness of law-makers; our senators and congressmen at Washington use the knife and cudgel often enough to remind us that after all their legislation, muscle still is their ultimate appeal.

Inconsistently, as one would think, they who in 1856 bowed lowest in their idolatry of law and constitution, when roared rebellion five years later were the first to arm against the laws and constitution of the confederation. When crime reigns, and law lies bleeding, and the fangs of venomous villainy are fastened in the throat of justice, touch not the monster, they say; let law by law resuscitate itself or ever lie low. But when by pride, or prejudice, or real or fancied wrong their passions are stirred, away then with idle form; shall we, they ask, wrap ourselves in a Nessus-shirt of tradition and perish out of worshipful regard for that which has no regard for us? If it be their bull that gores the neighbor's ox, they are on the side of the bull; if the neighbor's bull gores their ox, then they favor the ox. They do not hesitate a moment to fight a duel contrary to law, and contrary to law to shoot a man for any insult. Multitudes of such examples seem to force upon one the conclusion that nine tenths of the so-called principles

of politicians are pure fiction. Blinded by the dust of their own egoism, deafened by their own hollow shouts, the stupid unthinking masses are tamely led by those whose principles are made and governed by self-interest, and changed as self-interest changes. I do not ask or expect men to serve their country at the expense of self; I only ask that they should not hypocritically profess to do so. This view may appear cynical, but I am no cynic; it is not humanity but humbug I hate.

Thus was opinion warped to the one side or to the other by interest and education, until in one instance at least the community divided and proposed to fight it out.

Writing Judge Field in November 1873, General Sherman, who was active on the side of law and order during the movement of 1856, says: "You and I believe that, with good juries, Casey, Cora, Hetherington, and Brace could all have been convicted and executed by due course of law; that San Francisco had no right to throw off on other communities her criminal class, and that the Vigilance Committee did not touch the real parties who corrupted the legislature and local government. Again, if the good men of any city have the right to organize and assume the functions of government, the bad men have the right, if in the majority." There spoke the soldier, a mind trained to military precision. The sentiment, however, loses somewhat of its force when we see how the author regulates his own conduct under it. About this time, one of these very men, Casey, published in a paper of which he was proprietor certain remarks derogatory to bankers, of which fraternity Sherman was at that time a member. Naturally the general was furious. "I went up stairs to Casey," he says, "and asked him what motive he could have for the article in question, so full of falsehoods and unfair deductions. He tried to make some excuse, alleging his

special guardianship of the interests of poor depositors, etc., when I told him that I would not permit anybody in our building to be concerned in such a dirty trick, and that if he ever attempted by false publications to levy black-mail on us and on our brother bankers I would pitch him and his press out of the third-story windows."

Another incident of judicial inconsistency where personal feeling is excited may be mentioned in this connection—an incident of early times, doubtless forgotten by General Sherman, as he makes no mention of it in his *Memoirs:*

Under the Mexican republic it was the custom in California for the municipal authorities to impose a duty, in addition to that collected by the custom-house officers, of six dollars per eighteen-gallon cask on foreign liquors. To avoid payment of this tax, liquors were usually landed in the night. Under American rule, however, and up to the permanent settlement of affairs in 1848, it was different; then accounts of sales were sent from the custom-house to Colonel Mason, military governor of California, who gave copies of the same to the alcalde, Walter Colton, that he might know who had purchased liquors, and so collect the municipal tax. While the United States ship *Lexington,* in April 1847, was lying in the bay of Monterey, two casks of brandy were landed one night and left on the wharf. Several soldiers happening that way spied the tempting poison, and procuring a gimlet, opened speedy connection between the liquid and their throats. In due time the two lay senseless beside the cask, where they were found and taken to the fort. One of them died and the other barely recovered. Lieutenant Sherman was so exasperated by the occurrence that, taking with him a *posse* of men, he proceeded to the wharf and tumbled the casks over on to the rocks, breaking them in pieces. The owner of the brandy brought suit against Sherman, who was tried before General Kearney, and

acquitted on the ground that the owner had no business to leave the liquor there to tempt the soldiers. Whatever the quality of General Kearney's law, Sherman clearly committed a lawless act, and however exasperating the circumstances or noble the object, they were certainly not more so than those which actuated the members of the popular tribunal he so carefully condemns.

Following is an extract from a letter to the Mohawk *Courier*, of the state of New York, by an eminent member of the San Francisco bar, who has often sat high upon the judicial bench: "Unfortunately for the peace and reputation of our city, there were some members of the Vigilance Committee, whose object being to bring the judiciary into disrepute with the people, for reasons which will hereafter appear, were not disposed to let the opportunity slip by unimproved. Bold, unscrupulous, and resolute in pursuit of their selfish ends, they pulled the wires and exercised the chief control in the association; and having thus far committed it, having thus far succeeded in their assumption and demonstration of arbitrary powers; having found the laws powerless, and the people, for the reasons before mentioned, unwilling to punish their violation of them, these designing spirits were not content to resign their power so easily. As the Indian tiger that, once tasting human blood, never afterward satiates its thirst for it or contents itself with less noble prey, so they, elated with their success, and the impunity which attended it in this instance, were resolved to maintain their organization, not for the useful and praiseworthy objects which they first proposed, but avowedly for the purpose of exercising judicial functions, and of setting the established laws and tribunals of the state, nay more, the very constitution of the United States itself, at defiance. They assumed and publicly announced their determination to exercise the right of searching pri-

vate dwellings without the warrant of law, and of arresting, confining, trying, condemning, and executing any whom their inquisitorial researches might implicate in crime. Judge, jury, counsel, and witnesses, sheriffs, jailer, and executioner, uniting each and every function in their own body, they publicly announced their intention to carry out their plans and purposes regardless of all opposition, and in defiance of the law: still, however, under the specious pretext of maintaining its supremacy and enforcing its decrees; in short, powers and privileges of a regularly organized legal tribunal." The significance and value of such sentiments lose much of their force when the reader is informed that the writer of the communication was once before the police court of the city of San Francisco for attempting the life of the editor of a city journal, the ball from the judge's pistol just grazing the editor's hair.

Like the clergyman who for bread must play in his pulpit the part most agreeable to his hearers whether he will or not, so the officers of the law, beguiling the thing they are by seeming other than themselves, sometimes think it their duty to hide their real sentiments under the cloak of hypocrisy, and pander to the imperfections and superstitions of the law which pays them for acting the part of its high-priest. A case in point occurred during the movement of 1851. Meeting one day Gerritt W. Ryckman, third president of the Executive Committee, John W. Geary, then mayor of San Francisco, thus addressed him:

"Mr Ryckman, I am astonished that you, of all others, should engage in this unlawful and disgraceful business."

"Geary," said Ryckman, "were you not a paid limb of the law you would to-day be a captain of vigilance police."

It was true. No sooner had Geary's term of office expired than his conscience, chameleon-like, assumed the popular color, and hastening to Ryckman, he said,

"I come as a matter of duty to tell you if I had not been mayor of the city I would have taken a leading part in the vigilance movement. I approve, in unlimited terms, of every act of the Committee as conducing to the prosperity of California."

But why confine ourselves to minor illustrations of the hollowness of partisan opinion, of which there are thousands, when we may step at once to the bench of the highest legal state tribunal, and among the supreme judges themselves find numerous instances of their utter contempt, in action if not in words, of that law which they dealt with such exactness to others?

J. Neely Johnson, governor of California during the vigilance epoch of 1856, and a hearty hater of anything like one's taking the law into one's own hands—unless, peradventure, he should happen to be that one—on the 17th of July 1851 at Sacramento offended the peace of that city by assaulting a journalist, Mr Lawrence, of the *Times and Transcript*, from which fight Johnson narrowly escaped.

The case of the chief-justice of the California supreme court, who, while in the full exercise of the functions of his high position, was arrested and tried by the Vigilance Committee of 1856 for a deadly assault on an officer of the vigilant police, requires no comment.

Of the many chivalrous deeds of Chief-justice Murray at variance with the law which he administered, one will here suffice: Entering the store of Hill, Clark, and Company, in Sacramento, May 22, 1856, Murray, accompanied by three friends, stepped up to Mr Hill and asked him if he had made certain remarks derogatory to his character. Not receiving a positive denial of the charge, Judge Murray seized Mr Hill by the collar, raised his cane, and struck him on the head, inflicting an ugly though not a dangerous wound. They were at the time standing at the office door. Hill's friends drew him into the store,

closing the door upon Murray, thus terminating a lawless and uncalled-for assault.

Says a counsellor-at-law, commenting upon the attitude of the Vigilance Committee: "Although this modern Areopagus was composed of men of high respectability, whose decisions, abstractly considered, were distinguished for impartiality and justice toward their victims; and although crime abounded in the city and the guilty had often escaped punishment in the legitimate courts, yet its organization and action cannot be justified on any sound principles. They were anarchic and revolutionary; and their apology is the overthrow of all security of person or property founded on constitutional forms and proceedings. The energy which the Committee displayed in the exercise of usurped authority might have been directed in aid of the courts, consistently with the constitution and the laws, with equal if not superior efficiency." This is the old, old story, and simply bald assertion. Their action can be justified on sound principles, on the soundest of all principles, the principle of self-protection; and for the rest, the conditions and the results prove the falsity of all such statements. Vigilance is neither anarchical nor revolutionary. It saves society from anarchy, and is a different thing from revolution, as we well know.

One calls it an inconsistent trampling of law underfoot to punish lawlessness, thus justifying in practice what it professes to denounce, and violating the sanctity of a principle, which is the only sovereign of a freeman, and, professing to obey which, he cannot disregard in practice without the establishment of a precedent eventually detrimental to the cause of constitutional liberty. Another exclaims, "Better that a hundred criminals should escape than that the whole law of California should be outraged by an act that denies at once the value and the authority of our government." In answer to which I would say that a state of things which would allow the escape of a

hundred criminals, or of one, should not be tolerated for a moment. Punishment, sure and swift, is a mercy to mankind, a charity to the poor degraded offenders. If God would chastise the wicked now, he would save worlds for heaven.

If we compare the two following extracts from the same journal, written by the same editor, the first published on the 5th of November 1850, and the second the 28th of August 1856, we shall see how differently this question was regarded from different standpoints and at different times:

In commenting on the many acts of violence and incendiarism following the first influx of convicts, such as knocking men down in the street, boarding a vessel and beating the captain, attempts to fire the city, and the like, he remarks: "We are opposed to lynch law, and even averse to capital punishment, but it would be a praiseworthy act to take out and hang in the Plaza the first man detected in setting fire to a house in this city, and we hope to see that gentle admonition given, should any of those wretches be fortunately detected." The editor certainly did not intend by these words to inflame the public mind, and he little thought then that the gentle admonition of which he speaks would be so quickly and so earnestly given. Five years later his tone is quite different:

"We are free to admit that there is such a right as the right of revolution. Our forefathers availed themselves of that right and overthrew the English rule in this country. It was a right which they possessed. It is a right which the oppressed people of Europe now possess, for the reason that they can redress their grievances only by revolution. They stand in the same position as our forefathers did nearly a century ago. There are, however, two kinds of revolution, physical and moral. The difference between our condition and that of the founders of this republic and the people of Europe at the present time is that we can accomplish by a moral revolution what the former

could only have effected, or the latter can now effect, by a physical revolution. We possess the right of moral revolution, they of physical." Sophistry so simple would be unworthy our notice but for the connection.

The arguments advanced by a certain San Francisco doctor of divinity were these: "Surely there is not a word in the Bible," he says with clerical *näiveté*, "that teaches Christians to rebel against the legal authorities of a free Christian land. The Bible teaches nothing if it does not require Christians to be a law-abiding people. The early Christians conquered by submitting even to tyrants. It is marvellous how you can find an analogy between some mere local corruptions in San Francisco and the causes of the English revolution of 1688, or of the American revolution of 1776, or of the war of Great Britain in the days of Robert Hall. In 1688 and 1776, and in the days of Cromwell, there was no way to obtain redress but by revolution. Fundamental laws had to be obtained. Great fundamental rights and principles, both as to the civil liberty and religious, had to be secured by force. The government was not then, as it is now, in the hands of the people. They had not then the right of making their own laws and electing their own officers. Nor was there then, as now with us, a constitutional way to change or amend our laws and to remove unfaithful officers. There is no analogy or resemblance in the cases. With us, if the laws do not reach the evil, let the people, in the constitutional way, make laws that will reach it. The wrongs complained of in a popular government cannot make it right or expedient to paralyze all law. It is law and not lawlessness we want. Our government, as Chief-justice Marshall has said, is one of laws and not of men. It is the people, but the people embodied in a written constitution, and in written laws made in pursuance of that constitution. So ample and so specific is the method prescribed in our constitution and in our laws for

amending or changing them, that it is the decision of the supreme court of the United States that a revolution by force is impossible. It must be so; for if there is not a constitutional way of correcting the abuse of popular governments they cannot stand. My platform is the Bible, the constitution, and the union, just as they are." Which in the first place has ever been the platform of blind bigotry, and which in the second place is not true. The writer of the above lines a few years later was obliged to leave his pulpit and California because he was not satisfied with the union just as it was, and because he sympathized with rebellion.

It is not a little strange that in a mixed community like that of San Francisco, enjoying a liberty or license wider and less trammelled than that under any other republican government, there raged in certain quarters a fiercer fanaticism favoring absolutism than even might be found under many monarchical despotisms. Principles, however, are rarely separated from self-interest. It is worthy of remark that the law and order element, emanating from that school of chivalry which finds expression in the bowie-knife, the duello, state-rights, and rebellion, were of all republicans the quickest to defend their rights with their own arm in defiance of constitution or law. Having migrated to a new land, they clothed themselves in the robe of office, and fattened on the perquisites of the law. Law became to them what doctrine is to the religious teacher, a sacred thing, a *sine qua non*, involving wealth or poverty, influence or insignificance, food and raiment, or starvation and nakedness. The other extreme is found in the radical mob spirit. An individual rightly or wrongfully commits a rash act, it may have been in defence of his own or another's life; it may have been while laboring under aggravated excitement, so taunted and provoked that to pass the insult unavenged calls in question his manhood; or it may be he is only suspected of having

committed an outrage, and straightway without indictment by grand inquest, without the examination of a sworn and dispassionate tribunal, in the blindness of momentary rage he is seized and hurried away by the inflamed populace, and unconvicted of any crime, unannealed and unshrived, hanged on the nearest tree. Many instances are on record where a wretched victim has thus been deprived of life by a mad populace and afterward found guiltless of any crime, or, if guilty of the deed, it was found to have been committed under greatly extenuating circumstances, and not meriting the extremest penalty of the law. It was such lawless and sanguinary measures in the administration of justice, with excesses and outlawry in other directions, that brought opprobrium on California's fair fame. This is one phase of the subject; but this is not all. Vigilance reprobates one extreme no less than the other.

It is well enough in settled communities for statute-makers and legal dignitaries to defend the majesty of law and set the seal of opprobrium on rabble attempts to defy it; but where there is no law, or where law becomes inoperative, there is but one remedy for those who would escape anarchy and save themselves from social perdition. Undoubtedly some innocent men have suffered at the hands of an unorganized populace, have been inconsiderately and unjustly launched into eternity by a drunken mob; yet when the very best appliance for the dealing out of simple honest justice which human ingenuity can devise fails, it is scarcely wise to throw it aside for some worse system because it lacks perfection. Legal tribunals are not always infallible in their decisions, and the skirts of a more orderly justice have not been always clear of blood-guiltiness. Many a poor wretch is made unjustly or innocently to suffer, while the great scoundrel escapes with scarcely a blemish upon his golden escutcheons. To-day the administration of justice in all the courts of christendom is in many

instances a farce. The Mormons have a system which, though crude, is nearer right in principle than our own, for there he who feels himself aggrieved may lay his cause before his peers, and if necessary carry it from the lowest to the highest tribunal without cost; but who can win a suit, however just, in any of our courts without money? The heathen in our midst quickly understand this, as the following incident will show: In conversation with a bright-eyed smiling Mongolian, Ah Foy, a gentleman for whom he did washing expressed the opinion that one Ah Chung, lately arrested for the murder of Ah Li, his Celestial love, would be hanged. "Him no hang," exclaimed Ah Foy, "him all same Melican man; he got two thousand dollars! You sabe, no hab money, him hang; hab plenty money, no hang: all same Melican man." Three times in four when wrong is done the remedy is worse than the disease. Justice is too expensive a luxury, and so rascality thrives and honest men are brought low.

Let our wise and worshipful jurists study to perfect the system under which justice is at present administered before they so sweepingly condemn all other methods, however singular the emergency. Society breeds its own customs, and makes such yokes as best befit its distempers. In California, was crime to hold perpetual carnival because there were no Dogberrys at hand? If substance be superior to shadow, or the essence of morals to legal forms, then law must not be exalted above the power that makes law. The law protects those only who can handle it; suffer it to escape control, and it is a nullity. Rulers will never be much better than the people who set them up. Vicious governors and unjust judges can never long hold sway over good and just men. A fundamental element of progress is greater security to person and property. Not only is the power of man over nature ever increasing, but man's power over himself, which latter is the greater achievement.

Governors are the servants of the governed; judges, policemen, and all holders of public office, are subordinate to the people, who, under God, are almighty. What constitutes a state? Not legislative halls, with their law-makers and governors; not armed men and military accoutrements; not statutes, law courts, jails, and officers of the law—these are but the servants of the commonwealth, and their liveries. The people are the state; people, good or bad, according to the goodness or badness of the state. If the state is honest and high-minded, the people are so; if the government is mercenary, the officers corrupt, the press venal, the people are inglorious, base, and well befitted to such a rule.

This was no time or place for abstract theorizing. The assassin's knife was at the throat of society; courts of justice were inefficient or corrupt—in many places they had no existence; there were no jails, or none to speak of, and such as there were, criminals often were glad to enter as an asylum which should protect them from the fury of the populace. There were throughout the country no settled systems for the detection and punishment of crime, no police, no efficient officers of the law; every man of the community was hurrying hither and thither, absorbed in ferreting his own affairs, caring little what became of the land and people that he intended soon to escape from; and when the robber or murderer was arrested by his fellows, who would waste weeks or months or undertake a journey to some distant justice out of respect for forms and legal ceremonies when with their own eyes they had seen the deed committed and knew the man should die? The people must protect themselves by the simplest, quickest, and most practical system of retributive justice that it was possible to adopt, a system divested of mystery and delay, a system unnecessary and injurious to public morals in settled communities with an upright judiciary and the machinery of law perfect in its operations. No pun-

ishment is so effectual in the prevention of crime as the fear of certain and immediate death. In a roving border life, where conflict with savages and wild beasts is the normal state, where every man is armed against every other man, and the life of each is in his own keeping, the widest field is offered for the play of passion. In California, where most of the inhabitants were strangers to each other, wandering singly or in small parties through quiet cañons and pathless wilds, often having in their possession large quantities of gold-dust, the temptations to rob and murder were peculiarly great, for there dark deeds could be done with but little risk of detection, so that to condemn lynch law or mob law, unjustly or brutally as it was sometimes administered, is practically absurd. The forms and technicalities which in the judicial proceedings of settled communities are instituted for protection, are in lawless unrestrained societies for the same reason disregarded. In both cases the strictest justice is aimed at, and thus far experience teaches that thus in both cases it is best attained. Let him who would sweepingly condemn lynch law or vigilance committees first provide a substitute which promises protection. Among the criminal class the thirst for violence and blood increases in tenfold ratio with indulgence; if unrestrained it soon rages like the flames of a burning city, and the more uncertainty connected with arrest and conviction, and the longer the time which must elapse before punishment, the less are the feelings of horror and of fear for the penalties of crime.

CHAPTER IX.

THE GOVERNOR, THE GENERAL, AND THE PRESIDENT OF VIGILANCE.

One never needs one's wits so much as when one has to do with a fool.
Chinese proverb.

We must now go back a few days and review the situation from the standpoint of the opposers of vigilance.

Never in California was there so strong a feeling against popular tribunals as at this time. The sentiment was limited to a class representing the minority, and for that reason it was probably all the more bitter. Many had come to this state for the purpose of entering politics, and had staked their all for office. It appeared to them as if the whole country was alive with mobs and murderous committees, and they were heartily sick of such doings. In the eyes and consciences of many this disrespect of law was like trampling their religion into the dust. We all know how men will fight for their traditions, their opinions, the truth of them having nothing whatever to do with it. We have seen how the ranks of the opposers of vigilance were composed to a great extent of the worst elements of society; yet there were present some of the best elements. Of necessity there is something good in the worshippers of tradition, something productive of good in the act. "I never knew a man good because he was religious," says Coleridge, "but I have known one religious because he was good."

There is no lack of divinity in human nature; there is no lack of the spiritual in the material world. The

unseen and impalpable are as powerful in their influence upon us, in our organization, growth, and conduct, as are things material and tangible. Scores of sacred books have been made from mixed material, and even profane writings may mellow with age into something sacred. We might call the Homeric poems the first bible and the writings of Shakespeare the last. But religions have their birth and death. Long before Christ the philosophers of Greece scoffed at the gods of Olympus, and the floor of heaven, which was the azure vault, was swept of the supernatural by advancing thought. Yet not to all does the light come with equal clearness, and with many popular tribunals were as popular heresies or popular infidelities.

In the present instance the people were indignant. Passion is contagious. The law became indignant, and so did the military. Officials were angry because the people were, and soldiers must needs fight because they were made for that purpose. The army, however, gave the vigilants but little trouble. Those that could have brought matters to a bloody issue, to their great praise, be it said, would not; those who would, fortunately could not. The navy was under the direction of one less discreet, who soon began to talk loudly of annihilation. Many of the city officials, feeling their own weakness, became on that account all the more desperate.

But few of the United States authorities, however, took an active part in the movement, and these of course ranged themselves on the side of law and order. Most of them wisely refused to interfere, deeming the conflict one of those local disruptions which would spend itself soonest if left alone. Many reports at various times were in circulation to the effect that the United States forces at Benicia and the United States war vessels lying in the harbor would attack the Vigilance Committee, but such was never the intention of those who held these forces at their command. General Wool preferred rather to

keep the United States out of the affair; and to this end he directed Captain Stone, with a party of regulars, to proceed to Rincon Hospital, where were four large pieces of ordnance, and remove them to Benicia, that neither of the contending factions might seize them. This was a wise and humane proceeding. He had no fear that Mr Dempster would shoulder the United States and carry it off. Further than this, when General Wool saw with what wisdom and moderation the Committee were acting, and how large a majority of the people were with them, he addressed an order to the United States officers under his command to observe the strictest neutrality.

It will be remembered that it was on Wednesday, the 14th of May, that the shooting was done. And we have seen how quickly the officers of the law hastened to the protection of the assassin Casey, how they defended him at the jail, and how the criminal's friends and sympathizers united in armed squads for his protection. Next day, Thursday, there was scarcely less activity manifested in law and order circles than at the rooms of the vigilants. The police force was increased, the armories were replenished and put in order, and recruiting and drilling were prosecuted vigorously. The sheriff summoned *posse* after *posse* of those on whom he thought he might rely, and armed them for the defence of the jail. The military companies, fagged out by a whole day and night on duty at the jail, on Thursday morning were dismissed by Colonel West. During the day a detachment of the National Lancers rendezvoused at the City Hall, subject to the order of the mayor. The citizen-soldiery, though hissed and hooted at by the excited crowd, admirably maintained their equanimity; indeed they were too much in sympathy with their assailants to attempt retaliation.

By Friday morning it was apparent that a strong effort was being made to organize and bring out the state militia to put down the insurrection. An order

was issued by the sheriff and served on various persons favorable to the cause, calling a meeting, which was held at the place and hour appointed. Here is the order:

"STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO.

"To ————, a male inhabitant of said county, and above fifteen years of age: Whereas, I have good reason to believe that a serious breach of the peace and riot are to be apprehended, and that an organized attempt will be made violently to wrest from my custody a prisoner committed to my charge for safe-keeping: Now, therefore, by virtue of the authority in me vested, and in the discharge of my duty as sheriff of the county of San Francisco, you are hereby commanded to be and appear, at half-past three o'clock P. M. this 16th day of May A.D. 1856, at the Fourth District court-room, in the city hall, in the city of San Francisco, to aid me in the execution of my official duties in the premises.

"*San Francisco, May 16, 1856.* DAVID SCANNELL,
"*Sheriff of the County of San Francisco.*"

This call was answered by some sixty prominent men, mostly judges, lawyers, and primary election manipulators, who expressed their willingness to fight in support of law. After a desultory debate the following resolution was adopted:

"*Resolved*, That we, the citizens of San Francisco, have heard with great regret of the injury inflicted upon Mr King by one Casey; that we deprecate the existence of the present excitement and its cause; that in the event of the death of Mr King we are in favor of the immediate presentment of Casey by the grand jury, his immediate trial by a court of competent jurisdiction, and, if convicted, his immediate sentence and prompt execution."

The meeting then adjourned, and soon after the men of law met and placed in command William T. Sherman, just then made major-general of militia by the governor. The party then divided into companies, each electing its own captain; after which all separated to meet at half-past seven that evening.

Those detailed by the sheriff as special officers were then ordered to repair forthwith to the jail and enter upon their duties of guarding the prisoner and preserving the public peace. About one hundred men were placed on guard; sentinels paced to and fro upon the prison walls, and others were stationed with loaded

muskets in front of the premises. Meanwhile the governor of the state, at Sacramento, had been telegraphed by the mayor of San Francisco that his presence was required. The governor at once responded, and arrived in the city that evening.

Unfortunately for those who aimed at arbitrary justice, James King of William had arrayed against him not only a large class but several classes. The press he had offended because he had castigated all who apologized for irregularities in public affairs. The Catholics he had offended because he had taken exceptions to certain acts of their clergy. Citizens from the southern states he had offended because of his antagonism to their ideas and codes of chivalry. All these elements now threw their combined weight upon the side against the Committee. It was assailed as King's champion, a merchant-mob, an anti-slavery rabble. This, as well as the efforts of the mayor, the sheriff, certain of the military, and others, public and private, to suppress what some even dignified by the name of a rebellion, the Vigilance Committee greatly regretted; but as there was no help for it, they nerved themselves the stronger to meet the issue. Besides all this, and in addition to the innumerable questions hourly arising within the Committee rooms, they were fearful on the one side that the organized masses would forget themselves and open an assault, and on the other that the prisoner Casey would be spirited away, under the connivance of his friend the sheriff.

The governor of the state, whose name was J. Neely Johnson, was not a man of pronounced character. In morals and religion he was loose; in rectitude and honesty he was not stern. As chief magistrate he was artificial and inconsistent; he could not play any very deep part, small things being to him great, and great things small. Some natures are more susceptible than others, but the most susceptible are not always the most profoundly or permanently moved. The land is more quickly heated by the sun than the

sea, but the sea is warmed to a greater depth than the land; likewise, the land loses heat more rapidly by radiation than the sea.

Of more natural rectitude than Bigler, he had not the cunning of Weller. Left to himself, the Committee would have had no trouble with him, for besides being no match for them intellectually or practically, he had no special desire to injure San Francisco or to interfere with the will of her citizens. But he was afraid of his partisans. Although a lawyer, he cared little for the law; lacking the chivalrous ideal, he magnified chivalry. His supporters were mostly among the political and office-holding class, though he had great respect for the beans and bacon sellers. A stupid ruler is the greatest of American blessings if he be good-natured; but make him angry and he will back the state off a precipice and carry himself with it. Poor ignoble Johnson! In this his dire dilemma he was cursed alike by friends and foes, and never again in the eye of the people did he rise to common respectability.

The Sacramento boat was due at nine o'clock. At half-past nine on the Friday night of Johnson's arrival Coleman received at Turn-Verein Hall—the removal to Sacramento street not having yet been made—a message that the governor was at the Continental Hotel, that he desired an interview with the president of the Vigilance Committee, and that he would repair at any hour to any point the latter might indicate. Mr Coleman informed the messenger that he would wait upon the governor at his hotel immediately. Without prelude or subterfuge both came to the question at once.

"What do you want?" demanded the governor.

"Peace," replied Coleman; "and we would like to have it without a struggle."

"But what is it you wish to accomplish?"

"Much that the vigilants of 1851 accomplished: to purify the moral and political atmosphere, to do

what the crippled law should do but cannot. This done, we will gladly retire. Now governor," continued Coleman, "you are asked by the mayor and certain others to bring out the militia and crush this movement. I assure you it cannot be done; and if you attempt it, it will cause you and us much trouble. Do as McDougal did; see, as he saw in a similar demonstration, a local reform merely. We ask not a single court to adjourn; we ask not a single officer to vacate his position; we demand only the enforcement of the laws which we have made. If you deem it the duty of your office to discountenance these proceedings, let your opposition be in appearance only. You know the necessity of this measure; you know the men managing it; you know that this is no mob, no distempered faction, but San Francisco herself that speaks. Leave us alone in our shame and sorrow; for as God lives we will cleanse this city of her corruption or perish with her. So we have sworn. Issue your proclamations if you feel that the dignity of the law may be best maintained by frowning on justice; declare your manifestoes if the government can maintain its self-respect only by public protestations against virtue; but leave us alone in our righteous purposes."

"Sir," said the governor, taking Coleman by the hand, "go on in your work! Let it be done as speedily as possible, and my best wishes attend you!"

All which was most considerate on the part of the governor; most benignant. Undoubtedly he was sincere in every uttered word; at that time he intended to do as he had said. But Johnson fell on evil companionship, and Johnson was weak. He requested Coleman to hasten his undertaking. "For," said he, "the opposition is stronger than you suppose, and the pressure upon me is terrible." After some conversation concerning the prisoners who were the immediate cause of this commotion, in which Coleman declined in any manner to commit himself or his associates, the governor and the president parted.

If at this juncture, with affairs in their present position, a man of ordinary firmness and discretion had been at the head of state authority, ten days would have seen the reform accomplished and the Committee, if not formally disbanded, essentially so—ten days at the furthest. Said Governor Foote subsequently at the McGowan trial at Napa: "Had Governor Johnson listened to me, within five days after he himself had ordered the surrender of the jail the Committee would have been disbanded, and all the subsequent difficulties avoided." But coercion forced upon the Committee the attitude of defence; for the thought of retiring from their unaccomplished purpose seems never to have occurred to them.

Later that same Friday evening, after Coleman had returned to his work in the Committee room at Turn-Verein Hall, a messenger brought him word that several gentlemen, Governor Johnson, Mr Garrison, General Sherman, and others, were at the door requesting an interview. Coleman found them in the anteroom. Johnson's manner was changed. He had evidently been under the influence of the opposing party.

"We have come to ask what you intend to do," began Johnson, as if there had been no previous conversation upon the subject, "and to ascertain if matters cannot be amicably settled."

"Outrages are of constant occurrence; our suffrages are profaned, our fellow-citizens shot down in the street, our courts afford us no redress; we will endure it no longer." Such was the reply.

"I agree with you as to the grievances," said the governor, "but I think the courts the proper remedy. The judges are good men, and there is no necessity for the people to turn themselves into a mob, and obstruct the execution of the laws."

"Sir," replied Coleman, "this is no mob. You know that this is no mob. It is a deliberative body, regularly organized, with officers pledged to do their

duty. It is a government within a government, the very heart of government pulsating under the poisonous effects of unrebuked villainy."

"The opposition is stronger than you imagine," continued the governor; "there is danger to the city, great danger of bloodshed, which should be prevented if possible. It may be necessary to bring out all the force at my command. I would suggest that you take no active steps; hold yourselves together if you like, but leave the cause of Casey to the courts; and I pledge myself in his fair and speedy trial, and the immediate execution of his sentence."

"That will not satisfy the people, who, however they may regard your intention, will doubt your ability to keep such a promise," was the reply. The conversation became general. Shortly after Coleman withdrew, saying that he could take no steps of a definite character without consulting his associates. He briefly reported the conversation in the Executive room, where the governor's proposals met with prompt disapprobation. Returning to the conference with Messrs Truett, Arrington, and others, Mr Coleman repeated the governor's proposition, that there might be no misunderstanding, and again the officials were assured that there could be no possibility of any halting or concession on the part of the people.

It was then suggested by a member of the Executive that the Committee should promise to take no active steps against the jail, or the prisoners, without first giving the governor notice of such intention, provided the Committee should be permitted to place in the jail a squad of say ten of their own men to act in conjunction with the state and county officers to insure to the people the safety of the prisoners. This guard should be furnished food and comfortable quarters, and should be treated in every respect as became the people's representatives, and such guard might be relieved as often as the Committee desired. This conceded, the Committee would remain quiet

for the present; and if at any time they desired to withdraw from the compact, they reserved the right to do so on withdrawing their guard from the prison and giving the governor formal notice to that effect. A guard of thirty under Olney had been placed round the jail Thursday night. These in citizens' dress, with no distinguishing badge, armed only with revolvers, and frequently relieved, stood round the enclosure and at the openings communicating with the street to see that none escaped. But it was more fitting the vigilant guard should stand within the walls. In all this the Committee did not ask possession of the jail or of the prisoners; but the measure, if adopted, would be regarded as purely precautionary, that the people, who were apprehensive of the escape of the prisoners, and who demanded action, might be assured of the security of the men-killers there confined. This was finally agreed to on both sides. The governor and his attendants withdrew, and proceeding to the jail gave instructions that the vigilant guard be admitted. Half a score of picked men, under two good officers, were immediately despatched thither by the Committee to carry out the arrangements.

This was Governer Johnson's third mistake on that single Friday night. First, he should have kept away from the Committee entirely, whether he proposed to countenance or to crush it. Secondly, referring to his *laisser faire* policy, he should have done without pledging himself, what he pledged himself to do and did not. Thirdly, to brand the gathering a band of rebels, and then to treat with them to their advantage, was the very irony of wise rulership.

Next morning, Saturday, it came to the ears of the Committee that the governor and his *confrères* had expressed their doubts as to the maintaining of the compact of the night previous on the part of the Committee. In announcing to their party the terms of the compact, they had, moreover, either intentionally or otherwise, misconstrued them, in letter

and in spirit. They affirmed that this truce extended to a permanent armistice, almost to a surrender of right of action on the part of the Committee; that in availing themselves of the permission accorded the Committee to introduce into the prison their guard for the further security of the prisoners and the satisfaction of the people, the promise was implied, if indeed it had not been expressed, that the case should be left to the courts, and that the people should not interfere.

It was a source of great surprise to the Committee, who had entered into this compact in perfect good faith, and who had taken special pains that there should be no misunderstanding of its terms on either side, to learn the construction now placed upon it by their opponents; it was mortifying to them. They felt aggrieved at the false position in which the governor and his associates wished to place them. In their single-heartedness of purpose they could not understand why men pretending to have in view only the welfare of the city should wish to play the citizens false. They could account for this strange misconstruction of so plain a proposition, limited to the single agreement on the part of the Committee not to move on the jail while their guard was there, only in one of two ways: either their error arose from confusion of mind incident to the excitement attending their novel position before the people's representatives, or else, their eyes being opened to their mistake, and unwilling to be regarded in the light of political and military leaders outwitted and outgeneraled by plebeian mechanical non-professionals, they sought to hide their fault under this base subterfuge.

But little it availed them. The Committee, who were men careful to promise and strict to perform, men to whom chicanery and duplicity were strangers, men whose art was common-sense, whose shrewd wisdom the energy of high and honorable enthusiasm—these well knew the terms of the compact, well

remembered what they had promised, and, knowing, they proposed to do that and nothing else. I cannot write these vigilant leaders down knaves or fools, as I must needs do in order to entertain for one moment the charge thus laid at their door by the opposition. For first, they well knew they could not stop the movement if they would; that with five thousand deeply determined men at their back, men of whom they were but the mouth-piece, they might as well hope to dam Niagara with a handkerchief as to divert the people from their purpose. And secondly, the Executive themselves would have died sooner than have forfeited their oath and honor, betrayed the trust imposed upon them, and slunk back to their homes the slaves of villainous circumstance. They never promised to rest their proceedings at this point; they only agreed that their prison-guard, introduced by courtesy of the authorities, should satisfy their colleagues for the moment, and should not at any time be employed as the entering wedge to their own admission into the prison. And they never were so employed in the slightest degree. The stipulation was of no collateral benefit whatever to the Committee; the introduction of their prison-guard within the walls was for the simple object expressed by them at the time, and for nothing more.

Later on Saturday, hearing the construction placed by the governor's party on the compact, all the members who had met the party the night previous being present, the executive committee passed resolutions that they would make no change in their position at the county jail, and had then no further answer to make the authorities, who questioned them as to their purpose. They resolved, moreover, that they would notify the governor that they would maintain the treaty made with him the evening previous, and that the same involved no pledges on the part of the Committee, except that they would make no attack on the jail while their guard remained within it.

General Sherman seemed not unwilling for an opportunity to display his military genius in mustering forces for an attack on his fellow-citizens. As to the right and wrong of the principles at issue he was as capable of judging as the average citizen of San Francisco; not more so. He did not herein display any remarkable breadth of intellect or precision of thought. He was a good soldier; he could plan campaigns, and move regiments with skill and success, but these duties were no aids to clear unbiased judgment. He was chivalrous and loyal, but these are not the *media* through which the mind arrives at just discriminations. Made mechanical by body drill, mind drill, and soul drill, in feeling and in principle, when the high-priest of his profession was touched, even in the hem of its garment, careless of the humane and just, he was as ready, ay, apparently more ready, more eager to slay the righteous than the wicked.

It ill became one so ready himself to break the law, whenever passion or prejudice dictated, to manifest such murderous ambition when his neighbor broke the law upon necessity and high moral principle. Upon this principle of vigilance Sherman's ideas seemed somewhat erratic. In a former chapter I have spoken of his going to the upper floor of his building and threatening to throw Casey and his printing-press out of the window if he did not cease the publication of certain obnoxious articles, which was, to say the least, an energetic demonstration for a champion of law and order. Again, I mentioned the fact of his rolling off the wharf at Monterey certain casks of brandy whose contents had intoxicated his thieving soldiers, which manner of procedure in such cases I find nowhere laid down in statute-books. Yet another fact points to feeling rather than thoughtful consideration as the governing principle. Subscribing funds, in common with other bankers and business men, for the support of the Vigilance Committee at the out-

set, when made general of militia by Governor Johnson, and placed at the head of the forces organized for crushing the movement, he refused to pay his subscription. How different such conduct from that of those whom for the exercise of their fixed and unselfish principles he would have slain!

And yet another inconsistency of Sherman's which I had omitted. Strange how these things come to one when once the subject is started. To Captain Dimmick of San José, W. T. Sherman writes the 22d of December 1848 concerning certain irregular though perhaps *quasi* legal executions. I quote from the original letter:

"I received your note a few days ago, and assure you I was well pleased to hear of your election and that you had hung those three men. You may rest assured that Col. Mason fully approves of the step—as he will in all cases when he finds that the accused have fair trials. A good many men will have to be swung before an honest man can travel in the country. Ord has gone down to see about the S. Miguel murder. I expect every day to hear that they too have been hung. An alcalde can execute any sentence, in my opinion, when the jury sentence and he feels that there is no doubt. The only danger is that some may act too hastily and hang the wrong man. Such will not be the case when the alcalde is a discreet man. Capt. Ingalls has just returned, and tells me that one man of that gang was whipped and the other two were awaiting trial. If they are guilty, they too should be made an example of, for then the many robbers will see a determination to punish and will be careful what they do. I think a good record of each case should be kept, so that the territory would at no future time be accused of encouraging lynch law. I write this privately, as you know my office is in the military branch of government—not civil. I shall always be glad to hear from you and will serve you in any way in my power."

Thus we see, originating from the same source, three forms of popular power, the civil, the military, and the social, apparently opposed to each other. In reality there was no antagonism between them. But it required more than human discretion for each, under tantalizing and untried circumstances, to maintain that just equipoise which would avoid any display of pride, passion, or prejudice.

CHAPTER X.

ATTACK ON THE JAIL AND SEIZURE OF PRISONERS.

Let them call it mischief,
When it's past and prospered 'twill be virtue.
Ben Jonson.

SATURDAY afternoon the marshal was ordered to review the troops, and to have his whole force under arms at eight o'clock next morning. Fifteen hundred infantry, besides several companies of cavalry, and a fine park of artillery, with pieces of various calibre, were reported ready for service. More would be on the ground before sunrise. During the evening the Committee examined their forces in person, and found that a remarkable degree of proficiency had already been attained. The men were full of enthusiasm; they expected something to be done, they were impatient for it. Of the regular vigilant military there were at this time twenty-six hundred, with about four hundred under arms who had not drilled in any company. These latter were assigned to guard and other duties.

The time was at hand. The determination to move on the jail, demand and take the men Casey and Cora, bring them to the Committee rooms, give them a trial, and if found guilty to inflict punishment upon them, began to assume form. The guard should be withdrawn, and the governor notified according to agreement. In pursuance of the right, though extraordinary measures seemed necessary, nothing should be done that might not bear the scrutiny of honorable men, nothing that should stain the fairest integrity.

Colonel Olney was sent for. "Will you accept the

command of a picked company in an important and somewhat perilous movement under contemplation?" asked a member.

"I will with thanks," was the reply.

"Choose then out of all the vigilant forces of whatsoever companies sixty men. Let them be those who have seen service, if possible. In any event, accept none but men of unflinching bravery; let them know that they are chosen for the post of danger, which is the post of honor, and permit none to serve who shall not so esteem it."

Accompanied by two members of the Executive, Olney then visited the different companies, and requested their several commanders to call forward such as had served, and who were willing to volunteer to go to the front on dangerous duty. A rush from all quarters was the result; and for every one taken five disappointed applicants were left.

The selections completed, the men were ordered to meet immediately at head-quarters. John S. Ellis was made first lieutenant, and J. V. McElwee, George F. Watson, H. H. Thrall, Asa L. Loring, and H. L. Twiggs were named as assistants. Then all went to drilling, working heads as well as heels and hands, and twelve o'clock that night saw the little company in very good condition. "There they are," said Olney proudly to the Executive next morning, "there they are, every man of them of good tough courage, and you can handle them as well as any old soldiers."

Taking a map of the city, the president entered the marshal's room, and the two seated themselves at a table. The entire vigilant force was then divided into squads and companies, and the position of each assigned. The time required for each division, marching by a designated route from the place appointed to reach the prison, was carefully estimated. A plan was drawn of an attack; and the marshal was instructed to station his several divisions at the places indicated, and at a given moment each was to move.

No commanding officer of a division was to know the orders given to the commanding officer of another division. Each had only his own duty to do; and this was made so simple that there could be no mistake. Starting from one point at a given time, and marching by a given route, he must be at another given point at another given moment, neither sooner nor later; and there must be no mistake about it.

Early Sunday morning the Executive were in close conference. It was agreed that all business connected with the association, other than that immediately in view, should rest; that there should be no admission of members, no granting of interviews, or examination of reports, and that no member entering the general rooms that morning should be allowed to leave the premises without the special permission of the Executive. The most inviolate secrecy was charged on all. The mouth of him receiving orders was hermetically sealed, and though his mind might conjecture what others were to do, his ears were open only to what concerned himself. In view of the inexperience of officers as well as men, a committee for the day was appointed, known as the war committee, with power to coöperate with, and, if need be, to direct the marshal. This committee was composed of Truett, Osgood, H. S. Brown, and the two Thompsons. Mr Smiley's name was subsequently added to the others.

One hundred picked men, of whom Frink was one, were ordered to station themselves upon the hills in convenient proximity to the jail. They were armed only with pistols, and these concealed; they were likewise scattered so as not to attract attention. They took their position at half-past ten, at which time the jail was well defended by the roughs. At half-past nine o'clock the Committee's guard was withdrawn from the jail, and the following letter sent the governor:

"*To His Excellency J. Neely Johnson:—*

"Dear Sir: We beg to advise you that we have withdrawn our guard from the county jail.

"By order of the Committee. No. 33, *Secretary.*"

The plan of attack was as follows: Certain divisions were to rendezvous at certain points, for the most part at their respective drill-rooms or other more convenient spot. The main body was to start from the Committee head-quarters on Sacramento street. At the appointed moment all were to move, and approaching the point of convergence by different routes, each was to take the position assigned it. This was arranged so that there should be two bodies on Broadway immediately in front of the jail, one approaching by the streets on the east side, and the other by the streets on the west side, and on the hills north of the jail another body. These in taking their position should march and countermarch before the prison, in order to display somewhat their prowess and give time for reflection to those within. Their movements should be watchful, but deliberate. Round every block in the thickly settled portions of the city squads were stationed and patrols doubled, that no advantage might be taken of the absence of citizens from their homes by house-breakers and thieves. Instructions were peremptory that there should be no noisy demonstrations, no shouting or cheering, nor even loud talking. It was a solemn assembling for solemn purposes; and let every participant in the proceedings feel the weight of responsibility resting on him.

It is sufficient for us to follow the main body, which formed at head-quarters on Sacramento street. By nine o'clock the streets in that vicinity showed unusual signs of life for a quiet Sunday morning. Those in the immediate neighborhood began to inquire what was to be done, but they received no satisfactory reply. Any one might surmise, but no one had aught to say.

Colonel Olney's company, called the Citizens' Guard, was placed at the head of the column, it being their duty to act as executive escort and more immediate guard of the prisoners. Next after them was company 11, under Captain Donnelly and Lieutenant Eastman,

followed by a French company, Captain Richard; then a German company, and so on. Aaron M. Burns was on the grand marshal's staff with the rank of major, and commanded the battalion that brought the prisoners from the jail. Olney ranked next to the grand marshal; his company of sixty on this occasion were already equivalent to veteran soldiery and were in every respect to be relied upon.

Behold, then, this citizen army, men of every caste and calibre, thus so suddenly and unexpectedly fused by an idea. There was the baker, dusty from his kneading-trough; the brewer, fragrant with the odors of his occupation; the auctioneer, with his voice tuned to command; while the mild-mannered banker and the quiet merchant, who were fit for nothing else, were put into the ranks beside their own clerks and porters.

Just before marching, Olney addressed his company:

"The duty is one of danger," said he. "I would not have you taken unawares. The company is dismissed for ten minutes. Any one who does not wish to risk his life is excused."

Not a man of them moved.

Shortly before twelve the order was given to march. Their course was up Sacramento street to Montgomery, along Montgomery to Pacific, thence to Kearny, and along Kearny to Broadway and the jail grounds. A solid body of glistening bayonets occupied the street, while on either side pressed a throng of spectators, increasing at every step, and the whole living mass moved simultaneously forward, past doors and windows filled with curious lookers on, toward the jail. And this, while worshippers were praying in the churches to be delivered from the evil, and while the wife and children of Casey's victim were tremblingly watching death's creeping shadow. Before the moving of the main body, and besides those who had set out for the jail from their own quarters, several companies filed out of the Committee rooms and took different routes to Broadway, those starting first taking the

longest route, so as to bring them all upon the spot at precisely the same moment.

Everybody in those days knew Colonel Gift—a tall, lank, empty-bowelled, tobacco-spurting southerner, with eyes like black burning balls, who could talk a company of listeners into the insane asylum quicker than any man in California, and whose blasphemy could not be equalled, either in quantity or quality, by the most profane of any age or nation. Gift was standing on the street, opposite the St Nicholas Hotel, talking with a New Hampshire lawyer named Grant as the great body of merchants and mechanics filed past.

"I tell you, Grant," said he, "when you see these damned psalm-singing Yankees turn out of their churches, shoulder their guns, and march away like that of a Sunday, you may know that hell is going to crack shortly!"

The jail was a strong one-story-and-basement edifice, with heavy walls of brick and stone, the upper portion of which was not yet completed. It stood on an embankment, since cut down to the street, and the front door was approached by steps badly constructed from the veritable lumber used as a gallows in the hanging of the poor Mexican, before mentioned, on Russian Hill. The rooms and cells were in the then half-story or basement which opened on these steps leading down the embankment to the graded street; its flat roof was overlooked by residents above Stockton street and those upon the sides of Telegraph and Russian hills.

The street called Broadway, on which, between Kearny and Dupont streets, the jail was situated, when graded cut through the base of Telegraph Hill. At this time the street was not open to the city front. Between Montgomery and Sansome streets was a high bluff, commanding a fine view of the ground in front of the jail, particularly suiting such spectators as delighted in a little distance between them and the belligerent citizens. All the streets for blocks to the south and west lay open to the beholder, so that the

simultaneous doings in each could be easily witnessed.

Seen from this spot, the assembling of the vigilants was grand in the extreme. Up Montgomery street they came, up Kearny, Dupont, and Stockton; up through the cross-streets, and forward and backward from street to street as each company had been appointed. Column after column marched up to the prison, some passing, wheeling, and countermarching to their places with fixed bayonets and military precision. In their plain attire the men were less conspicuous than their arms. The streets seemed filled with a solid blue of steel.

Just as the column began to move, Mr Watkins, one of the most active and reliable upon the vigilant police, was ordered to take two carriages from the Plaza and drive directly to the jail. He had been there but a few moments when he found himself hemmed in on every side. All the avenues leading to the spot were suddenly filled with soldiers, and house-tops round the jail were taken possession of by vigilant riflemen. Twenty thousand persons had by this time gathered upon the hills adjacent as spectators of whatever was to happen.

"Having only a moderate military experience," says Mr Coleman, "I perhaps exaggerated the precision with which these movements were made; but to me it was very charming to see every single command arriving at its respective objective point almost within half a minute of each other."

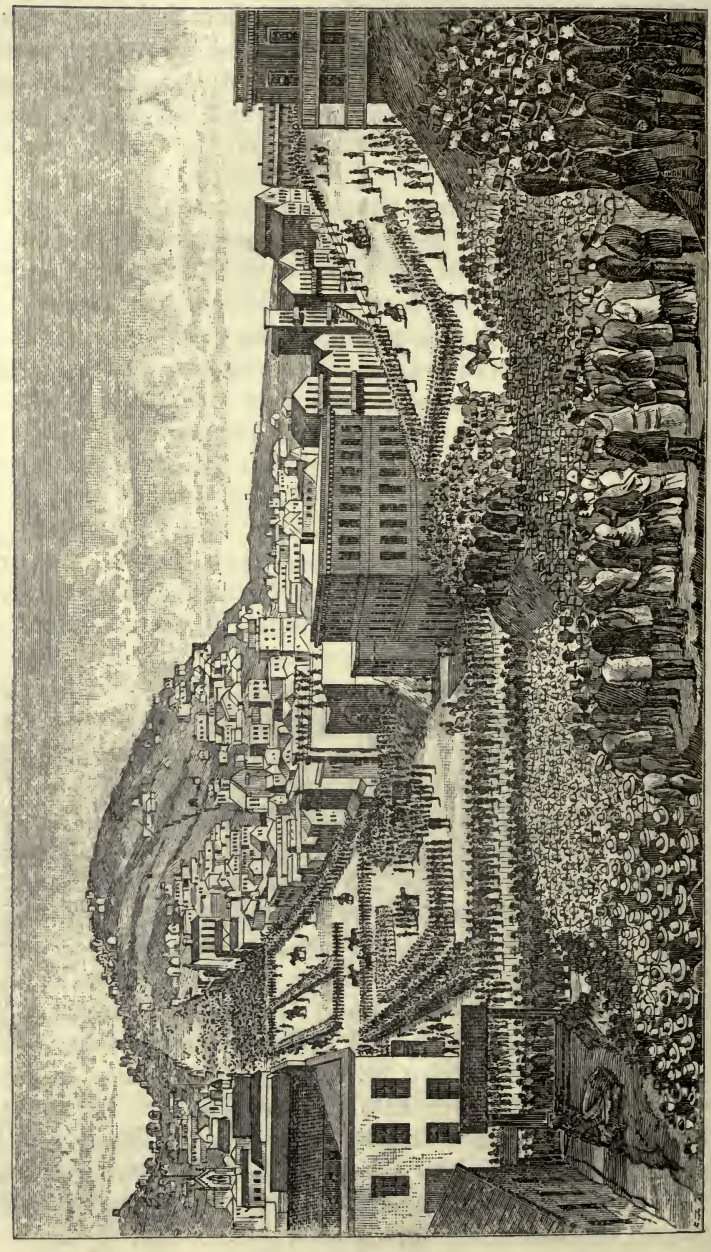
The entire force thus brought together formed a complete cordon round the block on which the prison stood, with a regularity that commanded the admiration of all present. "We see now what this means!" was written with smiles upon the faces of the troops along the line, brought to a halt by the meeting of other lines. No one was allowed to come within the lines formed by the military, or to pass out from the enclosure.

While for the moment the destinies of the day were left in the hands of the military, the war committee, accompanied by the president, hastened to quarters reserved for them on the corner of Broadway and Stockton streets, commanding a full view of the field.

It was one of San Francisco's loveliest of lovely Sundays. The stillness of a New England Sabbath ushered in the memorable day with that soft sunshine which under a cloudless sky freshens the air with ocean mists. This quietude as the day wore by was broken, not by rude alarms, but by the low tone of occasional command and the echo of the measured tread of many men joined in one purpose.

Again, when the bustle attending the arrival of forces at the prison had subsided, there fell upon the multitude another stillness, deeper and more solemn than that of the unruffled morning, the silence of awful expectation. It was characteristic of the day, this noiseless self-restraint, which removed their doings as far as possible from riotous demonstrations or passionate outbursts of temper. The marching of the citizen companies was unattended by drum-beat or the sound of instrument, and words were spoken only at intervals, and then in low tones.

The line drawn up in front of the jail extended from Kearny nearly to Stockton street. All the houses on the opposite side of the street from the jail were searched, that there might be no surprise from that direction. Immediately the Citizens' Guard had taken their stand in front of the jail a squad of artillerists under Colonel Johns arrived with a six-pounder, the property of the First California Guard, taken by a company under James F. Curtis for the use of the vigilants on this occasion from the store of Macondray and Company, where it was lying. The gun was placed in position by Lieutenant Ellis; it was then deliberately loaded with powder and ball, and the match lighted ready for instant use.



At this juncture Marshal Doane rode up to the door of the prison and gave three smart taps with the handle of his riding-whip. The wicket opened and the following letter, addressed to the sheriff, was passed in:

"*David Scannell, Esq.:*—

"SIR: You are hereby required to surrender forthwith the possession of the county jail now under your charge to the citizens who present this demand, and prevent the effusion of blood by instant compliance.

"By order of the COMMITTEE OF VIGILANCE."

This was at ten minutes past twelve. Mark the hour. The guard of ten had been withdrawn at half-past nine, leaving the sheriff in full possession. The notification of such withdrawal had been delivered to Governor Johnson in person by a member of the Executive Committee at eleven o'clock. The demand now made for the surrender of the jail was at ten minutes past twelve. The governor was advised by his friends, spies upon the Committee, of the fact that Casey was to be removed an hour before he was taken. There was plenty of time for him to bring out his forces if he could command any, or if he was so inclined. Lest the charge of duplicity, or breach of faith, might be laid at their door, these events, and the exact moment of their occurrence, were noted in the records of the association. The charge that this guard of ten was introduced for the purpose of opening the jail doors to three thousand armed men, who could have blown the whole affair to atoms in five minutes, shows how scant the foundation on which a lie may be based.

Mr Watkins, who was one of the captains of the guard of ten, states that Scannell, the sheriff, and Harrison, his deputy, were disposed to treat him cavalierly at first, but became more affable as time went by. He further affirms that Billy Mulligan was the only man about the prison who treated him with real civility. "On entering," says Mr Watkins of his first experience within the jail, "we found a large

number of men inside, stationed all over the jail, all well armed with double-barrelled shot-guns, rifles, and other arms, in addition to the regular force of the jail. Many of them were very valorous while they were inside; they outnumbered us about ten to one." Billy quite won his heart; the fact is, Mulligan did not know how soon he might be in a prison of which Watkins was keeper, and that not as captain of a guard of honor, but as captain of a band of thieves and murderers. "But among the modest men there," continues Watkins, "the man who treated us the best, and recognized us as the agents of the Vigilance Committee, was William Mulligan. He was on guard there with the rest, and treated us in a very gentlemanly manner, to my surprise ordering breakfast for us, and providing other accommodations."

There were now not more than twenty officials about the prison, and it was soon discovered that the sheriff intended no resistance. Standing upon the jail roof, apparently spectators only of the singular scene, were two deputy-sheriffs and three or four police officers, none of whom made any display of arms. These at one time made a move as if to descend, when the marshal shouted, "Stay where you are, or we will fire on you!" Within the prison were Sheriff Scannell, with two or three deputies, and Marshal North, with one or two policemen, all watching the movements outside with intense interest. Of serious aspect were their countenances, but there was nothing in them to show anger or opposition.

What were the thoughts of the criminal Casey, as he lay in jail, the centre of this social whirlwind which his evil destiny had so unexpectedly invoked? The journals of the day furnished him entertaining reading enough; some of them were a little too personal in their remarks to suit his pride, but after all it was a grand thing to be the subject of general commotion. This was the most glorious killing of the time; his

shot had struck not one, but thousands, and there was a pleasing fear in seeing them wince under the infliction of his chastisement. Scores of friends visited him in prison; he was their champion, and they were rallying nobly to his defence; everything that money could buy was at his service; on the whole he was well satisfied with his quarters. But should his victim die—ah, there was the danger! In that event his friends might not be able to protect him, and he might be torn in pieces by this infuriated rabble. The fact is, although Casey did not know, could not know, the extent of the terrible and determined preparation then being made in secret for his punishment, he did not feel comfortable as he lay in jail reading of the doings on his behalf of his fellow-citizens. And now to him the shadow of the vigilant army athwart his prison walls was as unwelcome a visitation as was the shade of his mistress Dido to pious Æneas in hell. Take it altogether, he wished he had not killed King.

On this still Sabbath morning, with its flood of golden sunlight freshened by the soft airs of ocean, when one would think that even a murderer might find momentary repose but for the thought of having blotted so fair a sight from the eyes of a fellow-mortal, Casey had felt the approach of his marshalled enemies, though at first he could not see them. There was a closeness in the atmosphere closer than that caused by prison walls; there was a darkness in the universe darker than that of his prison cell. As his companions recited to him the scene of the gathering, as they permitted him to look out upon the angry human clouds that darkened all that vicinity, he did not hear and see so much as feel their soul-stifling presence. Reading that which he most feared in the face of the sheriff, who now approached him with the vigilant order for the prisoner's delivery in his hand, Casey, terror-stricken and overcome, threw up his hands and cried:

"What! are you going to betray me and give me up?"

"James," said Scannell, "there are three thousand armed men coming for you, and I have not thirty supporters about the jail."

"Not thirty!" replied Casey; "then do not peril life for me. I will go with them. And yet I will not!" he exclaimed, starting up and drawing a long knife which he had kept concealed; "I will never be taken from this place alive! Where are all you brave fellows who were going to see me through this affair so safely?"

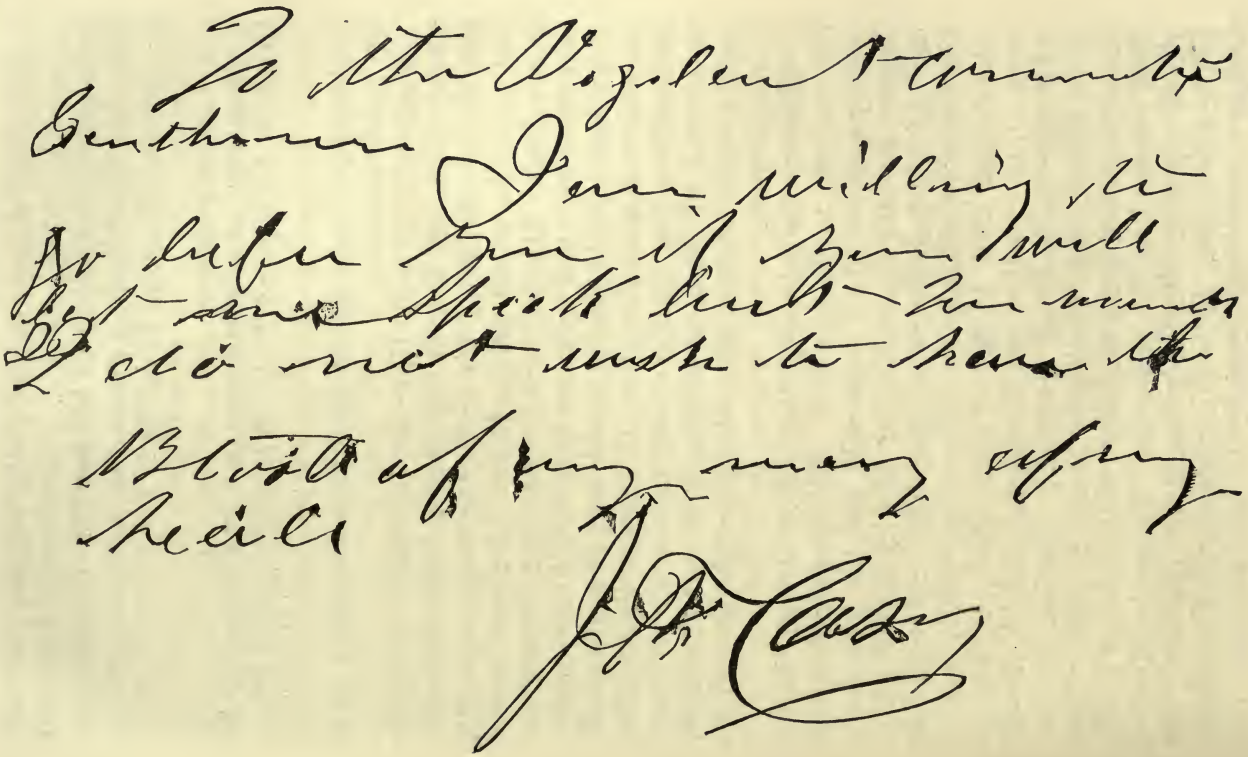
When the war committee, from their point of observation, saw their plans so perfectly completed, saw their forces standing invincible around the jail, saw their cannon planted before the door, and the lighted match, and saw the marshal deliver their message to the sheriff, they stepped forth, entered their carriages, and drove hastily to the scene of action, the ranks opening for them, and the marshal and his staff saluting them as they approached.

Taking their station in front of the prison, they were immediately surrounded by Olney's guard, who formed a hollow square about them. A deputation of the war committee, with the president at the head, and accompanied by Mr Truett, all under a strong guard, then approached the prison door and demanded admittance. Sheriff Scannell appeared immediately and opened the door to them. They entered, leaving their guard at the door.

"We have come for the prisoner Casey," said Coleman. "We ask that he be peaceably delivered us handcuffed at the door immediately."

"Under existing circumstances I shall make no resistance," replied the sheriff; "the prison and its contents are yours."

"We want only the man Casey at present," exclaimed Truett pointedly. "For the safety of all the rest we shall hold you strictly accountable."



The sheriff then proceeded to the prisoner's cell and informed him of the demand. Casey agreed to go, but peremptorily refused to be handcuffed. He moreover submitted the following proposition in writing, which he requested Scannell to deliver:

"*To the Vigilant Committee:—*

"GENTLEMEN: I am willing to go before you if you will let me speak but ten minutes. I do not wish to have the blood of any man upon my head.

"J. P. CASEY."

Evidently Casey feared immediate execution as at the hands of a mob.

Meanwhile Deputy Harrison had made an effort to induce the prisoner to acquiesce in their demands, but he only flourished his knife the more excitedly, and swore he would plunge it into his heart sooner than submit. Marshal North then came forward and said that Casey had promised him that if two respectable citizens would give him assurance of gentlemanly treatment, that he should not be dragged through the streets like a dog, that he should have a fair trial, and be allowed to summon witnesses, he would quietly yield to their wishes; otherwise he might as well die then and there.

"Show us the prisoner," demanded Coleman. North led the way to Casey's cell. His manner was still greatly excited; his eye was wild, and the long sharp dagger he still flourished in his hand. Coleman fastened his deep clear eyes upon him, and regarding him steadily, sharply for some time, finally spoke: "Lay down that knife." Casey, the poor hunted criminal, saw in that eye the master, and he obeyed. "All your requests are granted," Coleman now assured Casey; then turning to North he said, "Open the cell door and bring him out." Coleman and Truett then returned to the jail door. Presently Marshal North appeared with the prisoner, and delivered him to the deputation. He was not ironed, the Committee having waived that demand; and they supposed him

unarmed, but at that moment he had another dagger concealed in his boot.

As the president and Mr Truett, with their associates of the war committee, emerged from the prison door with Casey in their midst, and began slowly to descend the steps of the embankment, a burst of grateful relief rose to the lips of the vast multitude surrounding the vigilant forces; rose timidly at first, for round the prison all was silent as death, and began to roll up the hill-sides, and quickly would have swelled to their summits, when lo! the president, with hat removed and uplifted hand, beckoned silence, and immediately all was still. Hushed was the half-uttered cheer, and stifled the shout of joy; for after all it was the victory of twenty thousand over one wretched offender. Moreover, this was not revenge, but duty.

It was one of the most touching episodes of the epoch, the quick response to that silent request. Nothing could have better evidenced the warm sympathy of the masses for the association, and the respect for and confidence in the leaders, than this quick obedience to a silent signal made on the very verge of an outburst of exultant applause. Moreover it spoke the innate manliness of those who could so instantaneously see the propriety of thus suppressing demonstrations of joy in the presence of one poor criminal, powerless to resist. Yet none the less real to them and to him was the shadow of retribution cast by that unspoken applause which shut the shivering murderer from the cheering rays of human sympathy. Alas! why should he wish to live, on whom all eyes glared abhorrence!

At the foot of the steps the guard took the prisoner, and leading him to a carriage in waiting placed him within it. At his request Marshal North took a seat by his side, and Mr Coleman and Mr Truett occupied the remaining two seats. Mr Smiley placed himself beside the driver, and Mr Watkins took his station by the carriage door. The guard formed a complete

square round the vehicle, the main body of the vigilant forces followed, and in this manner the prisoner Casey was escorted to the Committee rooms on Sacramento street, and placed in a small cell which had been hastily constructed on the east side of the large room. A knife and his papers were taken from him.

Before leaving the jail the war committee had notified the sheriff that in one hour they should in like manner require at his hands the person of Charles Cora, warning him meanwhile that no person other than the sheriff or his deputies should be allowed to pass the prison door. About half the vigilant force had remained on the ground to guard the jail, while the remainder served as escort of the first criminal to the Committee rooms.

The marshal and war committee had been directed by the executive committee to accept possession of the jail in the name of the Committee of Vigilance. The war committee now concluded to leave the jail in possession of the sheriff upon his surrendering the person of Charles Cora.

In accordance with the notification given the sheriff, at the expiration of the hour named the war committee again appeared at the jail door and demanded that Charles Cora should be brought them. The sheriff now hesitated, and requested thirty minutes in which to consider the matter. These were granted him, but he still declined passing out any more prisoners, saying that as they possessed the power they might take the whole jail if they desired. The Committee assured the sheriff that he was the proper custodian of the jail, responsible for the safety of its inmates, and that they had no disposition or intention at that time to interfere with his duties further than in obtaining possession of Cora; but Cora they would have. The sheriff finally complied, and the murderer of Richardson was likewise removed to the Committee rooms.

Lying in jail at this time was one Rodman Backus,

a rough, somewhat respectably connected, who had killed a German at the corner of Stout alley and Washington street because the latter had dared to visit the lady of his affections residing in the alley. He had been tried, found guilty, and sentenced to the state-prison, and the German vigilants insisted that this man likewise should be taken from the prison, as his friends seemed determined to have him released on a technicality. After witnessing the demonstrations of this Sunday, Rodman lost all taste for liberty, and begged retirement at San Quentin. That night he was taken over from the jail to the state-prison in a small boat.

A grand rush of spectators had been made from the jail and its vicinity to the streets round the Committee rooms. It being their constant purpose to allay excitement so far as possible among the people, Mr Dows and Mr Burns were requested by the executive committee to address the people, and to say that it was the intention of the Committee not to be hasty. This information they were requested to convey in as few words as possible. Mr Dows presented himself at the window and informed the people that no execution would take place that day.

"Where are Cora and Backus?" asked one.

"The Committee hold possession of the jail, and all the prisoners are safe," was the reply.

Apparently satisfied, the crowd slowly dispersed.

Three hundred men were retained at the Committee rooms as guard for the night; the work of the day being now accomplished, the remainder were permitted to disperse. One by one the several companies filed off to their respective rooms, some of them marching down to the water to discharge their arms and returning to leave them freshly loaded. A guard of one hundred also watched the jail that night.

CHAPTER XI.

FURTHER OUTWARD MANIFESTATIONS.

Lookers on many times see more than gamesters.
Bacon.

I HAVE said that there were several standpoints from which to view this movement, notably two which present to us its inner and its outward phases. Following affairs chronologically, let us examine the matter in the present chapter from yet a new point of observation, our outward view of this social sea, white foaming in its mad unrest.

James King of William was shot on Wednesday, May 14th. Next day the following printed address, over the signature 'Brutus,' placarded throughout the city acted as fuel to the flame:

"Emergency of the moment! To the people! Friends and fellow-citizens, lend me your ears! The time was when in San Francisco many among us, law-abiding men, regretted the acts of the Vigilance Committee, and were willing to hope that if the law of the land had been duly supported the guilty would have met with their deserts. Since then experience has convinced us that the law is here a mockery; that the weak, the poor, the stranger, may pay his misdeeds by the forfeiture of his liberty or his life; but the rich villain, the powerful gambler, supported by his rich confederates, laughs at the impotence of the law, and stalks through our streets with bowie-knife or revolver to work out his wicked will, conscious of a friend at court who will screen him from his deserts. Patience is a virtue, but there is a point beyond which it degenerates into cowardice. Obedience to the law is the duty of every citizen; but when the law is effete, or its protection becomes tyrannical, resistance becomes the duty of every freeman. Such is the present emergency to our view. Law and its courts are a farce; murder stalks amongst us and must be checked. Then up, friends, and let the majority of the people try the presumed murderer, and then, if he be guilty, execute."

Throughout the day the excitement increased rather than diminished. Most of the daily papers, particu-

larly the religious journals, were in favor of prompt and determined measures. Two or three of them, however, ranged themselves on the side of law and order, and opposed the Vigilance Committee; but public sentiment was not with them, and they never afterward recovered from the effects of their course. The pulpit with few exceptions fully approved the action of the people. The next evening the *Bulletin* appeared with a significant blank column in place of a leader. On every side was heard the cry "Hang the murderer!" A flood of communications poured in upon the *Bulletin*. "My God!" says one, "is it possible that the people of this city are such a craven set of cowards as to suffer this grievous wrong? No, no! Let every man in this city enroll himself at once in this Vigilance Committee, and let us rid the city of these infamous thieves and assassins." "Had Cora been hanged, James King would not have been shot," said another. At Sacramento, Stockton, Marysville, Sonora, Vallejo, and almost every place of importance in the interior, meetings were held and resolutions passed in sympathy with the movement toward arbitrary reform. An offer of a thousand men for the Vigilance Committee was telegraphed from San José. The San Francisco City Guard disbanded, and so escaped the dilemma of being called to take up arms against their fellow-citizens. In fact both battalions of the regular military disbanded and resumed citizens' dress. The first appeal to federal authority was in the application of the mayor to the captain of a revenue-cutter to take Casey on board for safe-keeping, which proposal was declined.

Daily and hourly the excitement increased. Men but lately hesitating and doubtful took up arms; women talked freely of hanging, and children even whetted their fathers' courage by their infantile bravado. Up to the time when King appeared as the champion of honesty and morality, swindlers and assassins had been waxing stronger and stronger. A

series of masterly strokes had placed their minions in office and secured to them the ballot-box, the mercenary press, and every other means of public remonstrance. Almost every office of trust or profit was in their hands, and few editors dared rouse the hostility of so powerful a band of desperadoes by exposing their villainy. Every avenue to political advancement was blocked by them; no nomination could be secured without the payment of money to them, and no election secured until after a division of the spoils had been agreed on. To wipe this poison from society was Mr King's crime.

The beginning of the end had come. Says a vehement writer of the day, "Virtue, insulted beyond endurance, has buckled on her armor. Let every form of vice quail beneath the vengeance of her eye. Gamblers, I tell you that your day has come! Prostitutes, I bid you fly to the mountains and ask them to fall on you! Violators of the right of suffrage, your reign is over! The people are in arms, and woe to the ruffian who draws a weapon, and to the assassin who stabs in the dark!"

Friday, the 16th, a large and enthusiastic meeting sympathizing with the vigilance movement was held at Sacramento, and the excitement is said to have been greater even than in San Francisco. The French citizens of San Francisco passed resolutions supporting the Vigilance Committee.

Saturday, the 17th, a meeting of the law party was held in the fourth district court room, about one hundred, mostly lawyers, being present. The officers commanding the volunteer militia made a requisition on Sacramento for arms and ammunition, to be used, if necessary, in maintaining the peace of the city, which were supplied by Quartermaster Kibbe. Captain William T. Sherman was appointed general of this division and placed in command of all the military forces in San Francisco. The military were every moment edging round to the side of vigilance; the

mounted battalion all declined to act in support of law, and most of the other companies were by this time disbanded. The governor was telegraphed for; and there were delegations from a dozen interior towns sent to express their sympathy and offer their assistance. News was now received of large and enthusiastic meetings, commendatory of the Committee, still farther back in the interior, at Columbia, Shaw Flat, and all along the foothills, as well as at San José and down the coast.

Vagabonds and scoundrels presented themselves for admission as members of the Vigilance Committee in common with good citizens; it was an old trick of theirs; to be within the fold during such troublous times was the safest place for the suspected; but these when recognized were carefully excluded. The same day the city began to vomit its human offal; many suspicious characters, not liking the aspect of affairs, left that night by the Sacramento boat. Some of the courts adjourned, others continued uninterruptedly. Some of the judges left town; all kinds of business were affected by the excitement, and many persons were thrown out of employment. All who had anything upon their minds at this time went into the country; numbers found White Sulphur Springs a pleasant place of resort.

The advocates of law and order called the movement a revolution, and likened it to the bloody communism of Paris; yet again and again did they wonder and remark on the solemn stillness which prevailed, the moderate determination of the masses, so different from the loud huzzas, the noisy marching, and the *Marseillaise* singing of the French. Petulantly certain San Francisco officials refused to discharge their duties, the excuse being that the Committee wielded the superior power, and as the people seemed to desire that kind of rule, why, let them have it. The vacillations of the weak-minded governor, the bull-dog bloodthirstiness of his general, and the innate selfishness

of office-holders roused antagonisms which threatened serious evil. With all their boasted capabilities, the men of law needed a leader. Either they should have arisen and struck their blow promptly and powerfully, or they should have remained quiet. A *quasi* opposition, in which their own dignity and the dignity of the law might have been sustained, would have been more respectable, more creditable to them than real but puerile antagonism.

Confidence in the almighty power of forms and ceremonies led many to trust in law, never doubting that the mob would shortly be scattered. But when they saw, in addition to other bad omens, the Saturday morning after the shooting, the *posse comitatus* called by the sheriff for the protection of the jail, refuse to serve, the faith of many began to waver. That same day five dray-loads of muskets with ammunition passed into the armory of the Vigilance Committee. Until a late hour that night the people lingered about the Committee rooms, but of what was going on within they knew nothing. About half-past ten that night bodies of men in single file, bearing muskets, marched up Sacramento street in the direction of the jail. At midnight a dense fog settled on the city. Upon the roof of the building indistinct forms stalked to and fro in the misty moonlight, but the streets about the prison were deserted. The events of Sunday wrought a complete revolution both in fact and in feeling. The vigilants were masters of the government; right and morality were dominant, vice was disarmed. The law was dumfounded; it hardly knew where it belonged—with the virtuous, who disregarded it, or with the vicious, who nursed it.

On Monday, the 19th, the court rooms as a rule were empty. The limbs of the law were rheumatic. General attention was directed toward the Committee rooms on Sacramento street, but the day passed quietly and without the anticipated demonstration. Were a foreign foe entering the Golden Gate, prepara-

tions on the part of the merchants and mechanics for defence could not have been more thorough. Bands of armed vigilants paraded the streets, pickets were placed, and mounted patrols served day and night. Ammunition and gun shops were watched, and the general sale of weapons prohibited. In the evening it stormed; but the rain seemed in no wise to dampen the enthusiasm, which was fast becoming morbid. All day and half the night crowds waited about to see what would be done. At eight o'clock several vigilant companies were marched in good order to headquarters, where duties were assigned them for the night, and the relieved companies were permitted to return to their homes. The cannon of the California Guard was brought from the jail.

Early in the morning of Tuesday, the 20th, the streets for two blocks round the Committee rooms are packed with expectant humanity watching the development of events. At nine o'clock four or five companies are abroad in different parts of the city making arrests. An hour later companies composing the night guard are marched out of the Committee building, the relief guard taking their place. At ten o'clock it begins to rain. Nature, in sympathy with the occasion, spreads a pall of murky clouds over the bereaved city, and wrings out tears of sorrow over its martyred patriot, who even now is breathing his last. Crowds of idlers fill the thoroughfares, and knots of earnest talkers stand on every street-corner. Of one of the classes then in San Francisco living by the law, William H. Rhodes, over the *nom de plume* of 'Caxton,' writing in the *Bulletin* of May 19th, says:

"They stand all day at the street-corners flourishing whalebone canes and twirling greasy mustachios. At night they flock to the gambling hells abounding in all our thoroughfares, where they feast and carouse, bet and blackguard, damn their own souls, and take the name of God in vain. Or else, flushed with the pillage of some poor miner or despairing clerk, elated with wine and lust, they throng the houses of prostitution, and there, in the presence of male and female comrades in crime, rehearse the downfall of their last victim, plot the ruin of others, and gloat in hellish triumph over the desolation they have made."

Since the Vigilance Committee of 1851, which was the last open war between the two great contending classes, there had been continual battling in secret. Now hostilities had again broken out, and one or the other must yield. The people were determined that victory should not be upon the side of vice.

In a slightly exaggerated strain of not unmerited praise, 'Caxton' continues:

"Previous to the advent of Mr King as the editor of the *Evening Bulletin*, the thieving fraternity for many years had been in the ascendant in this city. By a series of masterly movements they had secured every avenue of public remonstrance and reprehension. The ballot-boxes were theirs, for their minions filled all the offices of trust and profit in the county, and thus laid the basis of the perpetuation of their power. The press also was theirs, for no editor dared to expose their villainy and array against himself the deadly hostility of the worst desperadoes the world ever saw. A few spasmodic efforts were occasionally made to throw off the incubus, but being seconded by no corresponding movement in the public mind, were almost immediately abandoned. The social circle was theirs, for they mingled openly and familiarly with candidates for the highest state and federal offices, and were hail fellow with mayors, marshals, aldermen, senators, sheriffs, and judges of the supreme court. The political arena was theirs, for, courted by all parties, they enslaved the leaders of all. No man could get a nomination without a bribe; no candidate could secure his election without taking from their ranks a partner in the plunder. The field of personal combat was also theirs, for they were men of blood by nature, boxers by science, crack shots with the revolver and rifle, and adepts in the art of stabbing and assassination. Thus fortified by the most powerful influences of society, they went on from year to year, gathering strength as they gathered public plunder, growing bolder as they grew more burdensome, aspiring higher as their ambition was achieved, until during the past year the theatres were filled with their mistresses, the public offices reeked with their toadies, and the streets were stained with the blood of their victims. The consequences of this dreadful scourge were soon felt in all the business relations of life. Public confidence was shaken, public honor suspected. Many of our best and worthiest citizens sacrificed their property and sent their families to the east. No man felt secure for a moment in the possession of life, property, or reputation. At this juncture Mr King started the *Bulletin*. At first he was scoffed at as a madman, then pitied as an enthusiast, then respected for his courage, then applauded for his independence, then beloved for his purity, his self-sacrifice, and his noble magnanimity. Finally, by a revulsion of public sentiment in his favor, which is without parallel in our history, he stood forth the acknowledged champion of public and private morality, the scourge of villainy, the vindicator of the freedom of the press, the friend of every social reform, and the benefactor of his country.

"San Francisco was not alone in awarding him these distinguished honors.

On the contrary, his chief support came from the interior of the state. Every valley and mountain in California echoed his praise, and the people everywhere welcomed his paper as a fireside friend. That such a man, the first, it might be the last, of his race, should have been assassinated in the streets of the commercial emporium of the state sent a thrill of horror to the heart of every honest man and woman from the sea-shore to the crest of the Sierra Nevada Mountains. Our citizens at first stood aghast with terror. But it was only for a moment. The reaction soon came on, and with it started into being one of those resistless impulses of the human heart which overthrows dynasties and effects revolutions as easily as an ocean wave dashes a yawl upon the rocks."

At half-past one on Thursday Mr King's condition was pronounced by his physicians to have improved, and hopes were entertained of his recovery. At two o'clock Friday graver doubts as to the result were expressed. His state was then considered critical. At two o'clock on Saturday his condition was said to be gradually improving, and he was comparatively comfortable. Monday, though more restless and less comfortable, his real condition appeared unchanged. During these days of suspense the carriers of the *Bulletin* often found ladies waiting at the door to see them, to inquire after the state of the editor's health. Said one Amazonian matron, "What is to be done with that villain Casey? If the men don't hang him the women will!"

At half-past one on Tuesday, the 20th of May, James King of William died. Then was the doom of felons sealed. The sad intelligence rapidly spread, and soon the streets were filled with sorrowful faces. The bells tolled, crowds assembled around the Committee rooms, expecting every moment to see the murderer brought forth to meet his just doom. All places of business and resort were closed; flags floated at half-mast, and public and private buildings were draped in mourning. Stretched from the *Bulletin* office to Montgomery block was a funereal device of the Howard Fire Company, bearing the inscription, "The great, the good is dead; who would not mourn his loss?" Another device, with the motto, "A martyr

to principle; we mourn thy loss," was raised at the corporation yard on Jackson street. On the arm of almost every man that walked the street was the badge of mourning. Never before had there been such a demonstration in the city.

Tidings of his death reached distant parts of the state sooner than distant parts of the city; bells, in measured sounds, like echoes from the bells beside the sea, announced the sad event in all the cities of the plains. Gloom like a black cloud settled upon the Great Valley of California; business was generally suspended, the people of the cities came together in solemn assembly, and the lusty miners in the mountain towns bristled in anger as the telegraph told them of the result of the dastardly deed. "We ask the people of San Francisco to act," said Coloma to the Vigilance Committee; "if you need help, let the sea speak to the mountains." The principal houses of Nevada, Grass Valley, and Auburn were draped in mourning. Sacramento, Stockton, Marysville, Oakland, Sonora, and other large towns performed the solemn obsequies simultaneously with those of San Francisco. That the people at large might have an opportunity of testifying in a substantial manner their approbation of Mr King's character, books were opened at different points throughout the state for one-dollar subscriptions to what was called the King testimonial, an offering to the family of the deceased.

At half-past three o'clock on Wednesday, the 21st, the Sacramento merchants held a meeting, and after passing resolutions commendatory and consolatory, appointed two committees, one of six to receive spontaneous offerings for the benefit of the widow and children, and one of fifty to carry to San Francisco the sympathy of her sister city and to attend the obsequies of the honored dead. The Sacramento theatre devoted its receipts of Friday night to the benefit of Mr King's family.

The following letter speaks for itself:

"SACRAMENTO, May 25, 1856.

"*Mr W. T. Coleman:*—

"SIR: There was a meeting of some forty to fifty of our citizens last evening to take into consideration the propriety of forming a vigilance committee in our city, and it was thought advisable to organize; there was a committee of seven appointed, of which the undersigned was one. The business of said committee was to obtain a copy of the articles by which the San Francisco Committee are governed, and if a copy of your by-laws, etc., could not be obtained, then the business of said committee was to draft a set to be submitted at our next meeting; but as I understand that your present organization is the same one that was forced into existence in 1852, and I think with your three years' experience that your by-laws, etc., must be much more perfect than any that we could hope to draft at this time, my object in writing to you is to know if we send a committee to your city whether said committee could obtain a copy of your by-laws and all of the articles by which you are governed—that is, as far as would be applicable to us in Sacramento. Please answer by return express. Yours truly,

"C. P. HUNTINGTON."

Five thousand men gathered at Sonora one night early in June to demonstrate their sentiments in favor of vigilance. There were processions, consisting of hundreds, each from Shaw Flat, Jamestown, Brown, Kincaid, and Campbell flats. A series of spirited resolutions concluded with the following:

"*Resolved*, That although the citizens of San Francisco have repeatedly rejected all offers of assistance from the mountains, yet if the rowdies will go down to assist the military, we shall consider it our privilege to send enough men to whip them out."

Says the Nevada *Journal* upon the subject: "The feeling evinced in Sonora finds a full response in this county. Public meetings have been held in various parts of the county, in favor of the Committee, while not once have the opponents of that organization ventured to show their hand. Some muttering about street-corners, and wise head-shaking by the few who sympathize with ballot-box stuffing, and bowie-knife arguments are the sum of counteraction. The *Democrat* feebly hints dissent, but has neither the moral courage nor honesty to follow in the track of the *State Journal*. We know no better indication of

public opinion than this mute acquiescence of our time-serving neighbor."

Then dark insinuations were thrown out through the medium of the *Herald's* columns by the roughs and friends of Casey that, should harm befall him, the city would suffer for it. This was the month of May, they said—May, with its gloomy reminiscences, the month of fires, with their attendant pillagings. The hard times throughout the country had driven to the city hundreds of desperadoes only too ready to profit by general disaster and anarchy. Therefore beware, citizens of San Francisco! To your homes, and leave the affairs of the municipality and the avenging of her wrongs to the advocates of law and order, to impotent judges, wriggling lawyers, ballot-box stuffers, and prize-fighters.

"Were it not better," says one, writing in the *Herald* the 17th, "that these criminals should escape justice entirely than that the blood of many innocent persons should pay their death? A mob must be resisted. There are persons whose duty it is to resist it, and it cannot be expected that they will desert their posts. The consequence will be that many lives will be lost, whatever may be the success of the mob." What a doctrine was here! Murderers were abroad, the ballot-box was subverted, wicked men sat in judgment upon their accomplices, the very life of social order and good government was in danger, and anarchy was threatened. Hirelings were appointed to defend the skeleton of justice, through whose wickedness or imbecility criminals escaped; and when in self-defence society strikes a blow in aid of justice, this man of peace cries out, "Beware! don't touch the assassin with his bloody knife, or some of you will be hurt!" Nay, I say, where such principles are at stake, better perish half the good citizens of San Francisco than let one murderer escape. And so thought the men of vigilance.

CHAPTER XII.

THE PERILS OF JOURNALISM.

Tout faiseur de journaux doit tribut au Malin.
Fontenelle.

To be right, and know it, is dangerous. Few can afford to be reformers. The world of opinion, aside from the alphabet of morals, is as apt to be on the wrong side as on the right side of a question. A public journal cannot be a reformer. As the mouth-piece of a sect or school it can but speak the opinions of its sustainers. If it sets up a morality of its own, its readers drop it; if it attempts to run without pretence to morality, that is to say without cant and hypocrisy, its readers drop it. Every journal boasts its independence, yet no journal is independent. There is no such thing, speaking broadly, as freedom of the press, any more than there is freedom of the pulpit. The press and the pulpit must speak to a class, and must tell them only that which they wish to be told. And of all things on earth, the people like to be humbugged. King of William's paper was the mouth-piece of a class longing to express its sentiments; otherwise it would not have lived a week. Of all servile, cowardly things, a bombastic, braggadocio, independent newspaper is the most servile and cowardly. It dare not think a thought nor breathe a word but as the reflection and echo of its supporters.

From first to last the proceedings of the law and order leaders were based upon a hypocritical pretence of reverence for law, or rather for the forms of law.

Now it was notorious that of all men in the community these were in their acts the most lawless. From President Pierce to Yankee Sullivan it was notorious that those whose cries of 'Great is the law with its time-honored protecting technicalities!' rose alike from legislative halls, court-houses, and jails; that these, of all others, in their deeds almost daily set law at defiance. The careful reader cannot have failed to observe that the double-dealing president, the imbecile governor, the stabbing supreme judge, the murderous-minded general, as well as the ballot-box stuffer and the ordinary assassin, all went contrary to the law that they pretended so devoutly to worship. In more than one instance in connection with their dealings with the Vigilance Committee little heed was paid to law when it stood in the way of passion, prejudice, or advancement.

But what has become of our organs, our mouthpieces, our exponents of public sentiment, our brains, those who do the thinking for us, those who form for us our opinions and give them us ready-made, our teachers, the daily press? The ranks of the leaders of public opinion seem to be demoralized, broken into helter-skelter scrambles. Men are seen rushing hither and thither and round corners chasing opinions of their own engendering. Stand aside, if you would not be crushed, oh, directors of human progress, manufacturers of general ideas! For one brief moment the people will think for themselves.

The *California Chronicle*, a daily morning paper edited by two of California's most able journalists, Frank Soulé and W. L. Newhall, was at this time in the height of prosperity, and second only in strength and ability to the *Herald*. But the pistol-shot of Casey struck it as with paralysis. It hated King; must it now praise him? It loved law; but it would have killed King itself had it possessed the courage. It loved order and hated law when it looked upon the people; it loved law and hated order when it turned

to King and Casey. It loved and hated everything and everybody; especially it loved itself and hated the *Bulletin*. The people! It would have damned the people, had it dared, while it licked their hand and laid at their feet its most humble and devout services.

About this murder, what was to be done? Mounting the fence, it takes a survey, and sees the surging masses on the one side and lowering law on the other; then lifting its voice the morning after the shooting it cries—nothing; mouthing generalities. Listen:

"What, then, shall we do? Appeal to the courts and see that they do their duty. Let reason and law, nay, make reason and law, vindicate the outraged laws and peace of society. Our courts must protect us, and vindicate at once the character of the community and the violated laws. There must be henceforth no trifling. Offended law must be vindicated. Justice must be satisfied. Murder must be punished. Homicides must cease. Riot and bloodshed must be prevented, or society is at an end, and irremediable havoc and ruin will cover us like a pall."

That is to say, if this shooting is not stopped, some one is likely to be hurt. If society is slaughtered, let slip the dog of war! Twaddle. But stop; this will not do! See the almighty people! They mean something; a thought has struck them, a veritable thought, and the *Chronicle's* subscribers rave and run about the streets like mad. Hence its cock-a-doodle of May 15th, delivered after an unquiet roosting on the fence that night; but perceiving yet darker thunder in the sky next morning, it again lifts its voice, flaps its wings, and hops down upon the side of vigilance.

Listen to the manly and independent journalist now, Friday morning, the 16th. How lovely!

"The condition of things has changed. Our best citizens have come together and organized. The excitement has become a sentiment. They feel that the time has come when murder must cease, when it shall cease; when this community must be purged of its dregs, of the creatures, whoever they are, who have poisoned the fountains of society and made the place as loathsome as a charnel-house. With this sentiment we fully agree. There are men among us for whom we have no use. They are a curse, a leprosy. There is no use for the gambler, except to drive him out of the city. There is no use for the murderer, except to hang him. If the courts will do nothing, what are the rights of the people? When all other means of redress fail, have not they,

who are the source of all power, who are all power, the right to arise and vindicate violated and outraged humanity? Most certainly. The right of revolution is theirs, the right of defending themselves and each other, the right to weed out the villains of whatever kind who league together to cheat, to rob, and to murder. For seven years our streets have been turned into slaughter-pens. For seven years, almost without exception, the courts have stood as protectors of murderers, cheating justice by their shams, and turning the offender loose upon society with an endorsement of innocence, while the whole community knew the endorsement to be a lie. They have punished miserable thieves with despatch, but rich robbers, moneyed murderers, and successful gamblers have gone free. What punishment has been inflicted for any of the murders of the past seven years? Only two men have suffered, and they because they had no money and no friends. One or two others have been found guilty. The poor German, Oldman, killed like a dog, is in his grave. How the lawyers and the courts tried to save his slayer! It was only because Judge Hager was on the bench that he was not set free on a quibble the second time. Dr Baldwin, an old man, was shot in the back, and his murderer was cleared and sent out upon society as if he had done a good deed. Twitchell was murdered because he stepped over an imaginary line, and a farce in the form of a trial set his murderer free. Richardson's murder is still unavenged; so is that of many other of our slaughtered citizens. What use have we for the thieves, vagabonds, and murderers who infest the city and make it hideous? In the gambler's hell, in the strumpet's den, murderous deeds have been concocted; in the city's streets, in the marts of business, in the dark alley, in the highways and in the by-ways, life has been taken; in the courts perjured jurors have acquitted the criminals, and judges have justified assaults with intent to kill, if not murder itself; and if by chance one is convicted, immediately the jury recommends him to mercy, and the supreme court grants him a new trial. Who need wonder that public patience is at length exhausted? Who wonders that a vast portion of our people, our best men, our merchants, our mechanics, honest, honorable, quiet men, have at length banded together with a stern determination of cleansing this Augean stable? They have a right to do it, and they ought to do it."

Converted! but too late—the *Alta* has the auctioneers' advertisements. Waver not, leader of public opinion! Judge instantly which way the herd headeth; then quick to the front and cry them on, if you would not be trampled under-foot.

Says McGowan in his narrative: "The evening before the rencounter of King and Casey I was in Barry and Patten's drinking-saloon, on Montgomery street, in company with J. C. Cremony, Esq., of the San Francisco *Sun*, and Mr Casey. While we were drinking at the bar we were joined by Frank Soulé,

Esq., of the *Chronicle*, and another gentleman, also, I think, connected with that press. The subject of conversation when they joined us was the braggadocio and threats of the King family, and the white feather shown by Tom in the *Caliban* matter that morning, Mr Soulé stated that he had been persecuted by James King of William, and had even gone so far as to procure a double-barrelled shot-gun for the purpose of killing him, and that nothing but the entreaties of his partner had prevented him from doing so. The evening of the shooting of King, Mr Soulé called upon Casey in the county jail, and taking him by both hands shook them heartily, saying that the people would thank him for what he had done."

Take this statement for what it is worth; pass the *Chronicle's* purgatorial day, the 15th, and read the following from the issue of the 21st: "James King of William is no more! Another victim of the bloody code lies still forever. One martyr more for liberty has paid his penalty for speaking what he thought. What threats could not effect, bribes failed to accomplish, the pistol has done, assassination has finished. The bold denouncer of wrong, the fearless antagonist of crime, the brave citizen who risked life and reputation, happiness and home, in the herculean task of tearing the mask from vice and laying villainy open to the view, lies in his bloody shroud, because he felt it his duty to expose evil and possessed the daring to do it." And so on. And how beautiful it is! How sincere! This man performs his unwelcome task like one hired to mourn an enemy's loss. And the stupid people sit and swallow it, because they like the taste of it.

The *Town Talk* turns upon a rustier pivot. At first it is prompt and pronounced for law and order, and several days of veering elapse before it points squarely to the side of the people. The next morning after the shooting it says: "We do hope and trust that the sober second thought will prevail, and that our city's

fair name may be preserved. Though a great wrong has been committed against society, and a lasting injury inflicted upon our city, let the law have its course and punish this offence." The next day, the 16th, the editor's mind seemed somewhat perplexed. "The people have the power in their own hands," he says, "and can demand that justice be done in the matter, or that that failing, mete it out themselves. Whatever is done, let it be done calmly, coolly, and deliberately, without sacrificing the lives of our citizens. To attack the jail would be to throw away many valuable lives, as its ramparts bristle with bayonets. Rather let the law punish, and the committee of the public see that the law is faithfully executed." The morning before Mr King's death it appears impressed by the imposing appearance of the three thousand under arms. It dwells on the "sublime sight of a whole community rising up in the majesty of their power and demanding the surrender of authority delegated to their servants, who have proved unworthy of the trust," and concludes by saying that "it is to be hoped that the city and county officers will resign, and not continue in office after the sceptre of power has departed, and confidence in them has been lost." The morning after Mr King's death the editor is too affected to speak. "This is not the time to write his eulogy; the hour is burdened with grief, and the heart too sad for the task." Revived, the 24th he strikes out in a vehement defence of the Committee. Alluding to the 'reign of terror,' as the law and order advocates characterized the rule of the Vigilance Committee, he remarks: "We adopt the term in the only sense in which it is true, the reign of terror to the rogues in the city. And long may that reign of terror continue which has driven the ballot-box stuffers and the election bullies to their hiding-places; that secures the honest man the right to vote, and enjoy the property in peace which he has acquired by honest industry; that secures the virtuous wives and daughters of our people from the contamination

of the brazen courtesan in the public streets; and long may that terror reign which secures the honest man his rights as a citizen, and drives the gambler and his satellites to their hells, more gloomy than hades itself. To those who have lived in every violation of God and man, to those who have fleeced the unwary and thoughtless in the gambling hells, to those who have fattened on the spoils of office illegally obtained, to those who never earned a dollar by honest toil, but roll through our streets in pomp and luxury on the means filched from our people, to all such this is indeed a reign of terror. God grant that the lesson may continue until every rogue in the land shall flee our city; then the fruits of the recent revolution will be seen, and this reign of terror will be complete. Business will be resumed; the mechanic will return to his labor with renewed energy, feeling that there is still security for person and property in California. But who feels the present government to be a reign of terror? Does the merchant, whose business has been suspended for a whole week, and whose money has been freely contributed to support it? Does the honest mechanic, who has laid aside his tools and shouldered the musket to sustain it? Do these gallant men who have sacrificed their ease and comfort, and endured the dangers and privations of a soldier? Do good and just men everywhere regard it as a reign of terror? We answer emphatically, No. They know it is the only salvation of the noble city they have toiled to build up. They yield the government not mere tacit obedience, but are willing to peril life and property to sustain it. The city was never more orderly than at the present time. Approach one of the court-rooms, and it is like some banquet-hall deserted. The officers are lounging about idly from old associations, not that they have any business to do; those eloquent harangues that we were wont to hear in that vicinity have 'dried up,' and your footstep sends back a hollow sound, and the echo reverberates through the building

without a response. It looks sad and desolate, and those who have been cut off from the crumbs look dejected and sorrowful indeed. Many will be driven to that last sad alternative—work. It is hard, but this is one of the evils of this reign of terror. May they find consolation in a good appetite."

Very well done for one so slow to see so plain a path. The fact is, these journals could not face the ruin which they saw staring them in the face. After all, John Nugent of the *Herald* was the manliest of them all; not in persisting in an erroneous course, but in his consistency. One respects a hearty fighter in a bad cause more than a renegade.

"If asked whether five men or five hundred men," writes the editor of the Sacramento *Union* on the 21st of May, "possessed the right abstractly to hang a man charged with crime without authority of law, and without his having been convicted according to the rules of evidence which obtain in our courts, we should answer in the negative. But the action of the people of San Francisco during the late fearful excitement, caused by the shooting of Mr King, is as unlike the proceedings of a mob as some legal farces of trying men for murder which have been enacted in that city are unlike legal proceedings in courts where law is administered with an impartial hand, and where all the officers of court take a pride in discharging their duties faithfully and fearlessly."

"When are these things to end?" asks the *Alta* the morning after the shooting. "How long is San Francisco to be cursed with the enactment of such scenes as that of yesterday? How long are people in the Atlantic States to be deterred from coming here by the fact that human life is held here at so light a value? How long is the death-dealing pistol to be the arbiter of differences between man and man here? These are questions which must be seriously considered; and it is time they were answered, and answered emphatically. Through all the excitement of

yesterday there was a deep and earnest feeling prevailing among all good citizens, a determined expression that it was time to act and do something to redeem the blood-stained character of our city, to save it from the reputation of being another golgotha."

For these and like brave words the *Alta* was rewarded by the patronage of the associated auctioneers, which it retained for twenty-five years, and yet retains at this writing, and whose united advertisements, more than once, have been the means of saving that journal from bankruptcy.

The evening press, having had more time in which to consider matters and arrive at conclusions, exhibits the tone of public opinion more evenly than the morning papers. Says the *Journal:* "It was known to many before the fatal moment that it was about to happen, and it was spoken of as a thing certain to be accomplished; and the fervent hope and prayer of our citizens is that these parties shall be ferreted out, that the seal of public condemnation shall be placed upon them, and the majesty of the law visited upon them in its greatest force and extent. All pimps and street-brawlers who parade our thoroughfares armed with revolvers, derringers, knives, and bludgeons, these people must be banished from every post of official trust and power. And if the citizens do not now firmly resolve to give no rest to the matter from this time forth until its accomplishment, then we are lost, and our city will become a prey to gamblers, debauchees, and a gang of political hell-hounds that know no law but passion, and recognize no arbiter but the assassin's knife and deadly revolver. Shall we yield this fair city a prey to such men and such influences, or shall we, like men who can justly value the rights we have been taught to enjoy, band together and by a united impulse and a persevering, untiring vigilance, reclaim our city from this detestable class, and inaugurate the era of justice and the rights of the people?"

And the *News:* "We have watched our young state almost from its infancy, and have witnessed all the disorders and crimes incident to a new and disorganized society, yet we are free to confess that no event has filled us with greater horror or detestation. Robbery, arson, and murder, it is true, have been recorded, and even the assassin has dared to lift his arm in an unfrequented street, but never before has an assassin audaciously performed his dastardly work in the light of day, amid a crowd of witnesses, and at the risk of increasing the number of his victims from among our most peaceable and best citizens. Our society, instead of advancing seems to have retrograded. In years past, robberies were sufficient to consign the culprit to the gallows. We have now proceeded from robbery to murder, from murder to assassination. We are aware the criminals in our midst form a very small proportion of our population, yet our whole people are held by the civilized world as responsible for their deeds. We are no advocates of vigilance committees or lynch law. The remedies which they afford for existing evils are perhaps as bad as the evils which they propose to eradicate. But it is impossible that things should remain as they are. A change must be effected; our very existence depends upon it."

The religious journals were the most pugnacious and lawless of all. Thus the *Pacific:* "The only question is, what is the duty of our citizens? A meeting of the Vigilance Committee has been summoned to meet at nine o'clock this morning. Shall the Committee reorganize and reassert justice once more in our midst? If the people have reasonable ground of confidence that justice can now be secured, not only in this case, but generally, in our courts, the duty is then plain to leave the case there. To leave it. The mere exhortation to secure the action of the courts, the exhortation of the courts to fidelity, is of no account whatever. But if there is no chance of justice;

if criminals are certain to go free; if gamblers, and prison-birds, and blacklegs yet control the forms of law; if, while James King lies in his gore, James Casey, guarded by friends in prison, can mock at justice and laugh at public indignation—then let the strength of the people be felt once more, inspiring fear alike among the black-hearted criminals and officials equally corrupt. If no justice be meted out in this case, other victims will yet be demanded. The life of no man is safe who dare utter his true sentiments. If it becomes impossible to convict a man who brutally assaults an editor, his fit associates standing around to prevent relief; if, at Sacramento, a judge of the supreme bench will turn aside from his office to attack a citizen for expressing an opinion upon his character; if the murderer of Richardson, purchasing with money the eloquence and influence of the bar, can set justice at defiance; if one of our most useful citizens, to whose fearlessness and truthfulness the community is largely indebted, can be shot down in open day by one who has also a public journal at his command for his own defence, and if there is no chance of convicting him—then we say no man's life is safe, unless we connive at the rule of gamblers and ruffians. It is a serious thing for the people to take the execution of the law from the appointed tribunals, but it is a thousand times more serious that it be not executed at all. In the eye of the law, without possibility of counter-testimony, James P. Casey is a murderer. He ought to be hanged. It is for each man's conscience to say whether he believes that, left to our courts, Casey will be hanged. Believe it who will, we do not."

The *Globe* seems much concerned for the liberty of the press, and asks, if editors cannot call supervisors names, what will become of us? The German *Journal*, *Wide West*, *Golden Era*, *Mail*, *L'Echo du Pacifique*, *Le Phare*, *Le Patriote*, come out in about the same strain of condemnation of the deed, and sym-

pathy for the wounded editor's family. Says the German *Democrat*: "To us it is a matter of indifference whether Casey will be hanged or not, because if Casey is hanged, there are ten others like him; and to call a vigilance committee for this purpose only is of no use. What we do desire is an entire annihilation of the criminals and gamblers, removal of the same class from office, reëstablishment of the elective franchise, and guaranty of the freedom of the press. As long as we let these scoundrels remain here, things will not be better. A vigilance committee must not only hang Casey, but must also clear out our city of his like."

For a long time after the uprising, the *Bulletin* continued ungenerously to kick the dead bodies of its enemies. It spoke slurringly of those who took charge of the remains of the departed unfortunates, and stigmatized those who followed them to their graves. Under the editorship of Thomas King, who succeeded his brother, it rapidly degenerated, and was kept alive more by public sympathy than by personal merit. The issue of May 28th leads off in a puerile imitation of the original editor, as like his as the braying of an ass is like the roaring of a lion, in which the brother bellows and brays at judges, officials, and bankers in the silliest of verbiage. The personal abuse upon which the journal had fattened during the *régime* of the original King, under the brother's impotent rule had become a species of intensified, blackguarding hate. He who was not a friend to this newspaper was the enemy of God and man. Here was the touchstone of good citizenship; and here the good citizen's catechism:

Who made you? The *Bulletin.*

Who redeemed you? The *Bulletin.*

To what end were you created? The *Bulletin.*

Do you love, subscribe for, advertise in the *Bulletin;* do you think upon all subjects as Tom King, its editor, thinks? Yes.

Then be you received into the good graces of the *Bulletin;* so long as you remain in the faith, be you severely let alone, be your reputation never slandered and your ruin never attempted.

The career of the *Herald* was somewhat remarkable. Beginning 1st of June 1850, at a time when the mining fever was at its height, it rapidly rose to the first rank in Californian journalism; and I would here again take occasion to remark that neither before nor since has there been a more ably conducted newspaper on the Pacific coast. Its editorials during the first few years of its existence were equal to those of first-class eastern and European journals, and while fully alive to the magnitude of the times, and behind none in energy, its temper was moderate and its judgment sound. One fatal mistake it made—opposition to the Vigilance Committee of 1856, and for this it ultimately paid the penalty of its life. In September 1851 the associated auctioneers and commission merchants of San Francisco, comprising some twenty auction and commission houses, representing the largest business interests of the city, made arrangements to advertise exclusively in its columns, and these arrangements were formally continued from year to year up to the 14th of May 1856.

Then sold this journal its soul to Satan. From that moment the San Francisco *Herald* became the champion of scoundrels. Villains were openly praised and villainy defended. The arrivals and departures of notable rascals were recorded with all their assumed titles, and amidst eulogistic details the most disgusting. Any man who was a filibuster, fenian, democrat, or southerner, might safely claim the protection of this sheet, no matter what his antecedents or his crimes may have been. In this severe statement I believe I do not exaggerate; I believe that I am not governed by prejudice, and that it is only after a careful and candid study of its columns for months that I am led to these conclusions. I knew John

Nugent at the time; years after we were in closer, friendlier relationship. I always admired the man, honoring and respecting him in my heart and in my words. I have had occasion to entertain such sentiments toward some of his successors, but I must confess to but few of them. The vigilance journals of 1856 were in many particulars as bad or worse than their opponents. They were partisan and insincere in many things. Some of them had taken a stand on that side from passion, others from pecuniary interest. But it happened in the main that they were on the side of truth and righteousness, however detestable the character of their editors may have been; but the *Herald* from the moment of its disgrace was filled with black malignant hate, and in its statements scrupled at neither untruthfulness nor immorality, though it did not seem to know it.

Its earlier piety was not unprofitable. It derived its full share of patronage from the first Committee. Among several bills ranging from twenty-five to one hundred dollars is one dated 26th June 1851, for "two hundred extra large posters in English, French, German, and Spanish, thirty dollars." These were notices of meetings and rewards for criminals to be advertised, beside subscriptions and job printing. From the *Herald's* bill of eighty-five dollars, September 1851, thirty-five dollars are deducted "for the good of the cause."

"The position of the San Francisco *Herald*," says the Nevada *Journal* of the 23d of May 1856, "is at present a most unenviable one. It stultifies its whole former course by its present denunciations of the action of the citizens of the city in which it is published, for in former years when the people of that city exercised with less caution and moderation the powers they have recently been compelled to assume, the *Herald* was one of the warmest supporters of the Vigilance Committee, and seemed to be half satiated with vengeance when the people laid down their tem-

porary authority. But since those days it has passed from a pretended friend of the people to be the organ of the very corruptions the people are most called upon to abate—has become the tool of men whose necks would be least safe were a scrutiny sufficiently keen directed upon the movers in many of the dark schemes continually evolved in San Francisco. Truth and justice have not changed, but the *Herald* has shamelessly deserted them; and its present attitude needs no other commentary than its former course in reference to scenes similar to those now transpiring in San Francisco.

It is not a little curious to watch this journal in its death throes. It is said that a well established newspaper dies hard; but seldom is there such a blow struck at such a journal, and with like effect. Though it struggled for several years, and in time resumed its former size, it received its death-blow here; it never regained its prestige, and was finally obliged to succumb. Listen to the editor Saturday morning, May 17th: "There is no denying that the storm has burst upon us in all its fury, but it is just such a storm as we love to breast. We are alone in this fight, and we cannot say that we prefer to be otherwise. In our whole editorial career we have never felt a more thorough conviction of the correctness of our course."

Like the man of clear convictions whose luck it was always to sit upon the jury-bench with eleven fools, this editor assumes well nigh infallibility when he acknowledges himself alone and glories in it; yet possibly there may be more of braggadocio and regret in these remarks than glad courage. I do not know. Then he threatens: "We assure those gentlemen who have joined in this unjust, wanton, and despicable crusade against us that we will make them hide their heads for very shame before we are done with them." So the press may strike, but the people may not. Diminishing the size of the paper was in

my opinion poor policy; unless it hoped by assuming an attitude of persecution to excite sympathy and turn the tide of popularity in its favor, which signally it failed to do. When King of William died two black bars enclosed the notice of his death, and the editor's remarks were sympathetic and respectful. The next day, however, as if to make amends for his passing bow to death, in a two column leader he rants louder than ever against the reign of terror, military despotism, the defiance of the constitution, the overthrow of trial by jury, the surrender of our birthrights into the hands of an oligarchy, and twenty other such straits to which the three thousand bayonets had brought us, and almost attempts to justify the deeds of Cora and Casey. Strange this man of sense should so suddenly have become rabid, insane. Why were not all these able and eloquent arguments thought of five years before, when this same editor was throwing himself and all his journalistic influence upon the side of summary justice?

Compare this with a statement of Mr Nugent's in the columns of the same journal the 27th of January 1855, and bear in mind, meanwhile, that he affirms his sentiments have not changed. "We are called upon this morning to chronicle the hanging of four more criminals, by order of a people's jury. These make ten executed in this state without recourse to the machinery of law, during the past month, one at Volcano, one at Mariposa, one at Iowa Hill, two at Los Angeles, one at Sonora, three on the San Joaquin, and one on Salmon River; and in every instance they richly merited their fate. Had they been left to the slow process of the law, there is not the slightest probability that any of them would have been punished: or if nominally punished, that they would have remained any longer than suited their pleasure in that paradise of cutthroats, the state-prison. Let the murderers and burglars of San Francisco, who seem to have been let loose upon us,

take warning by the fate of their fellows in the interior."

For weeks after the great uprising he beats the air like a man distraught, and in his two or three columns daily sinks into bombastic sophism and verbiage. In vain have I searched his editorials, written with a mind wrought up to its intensest pitch, for one sound argument favorable to quiescent obedience to law under the circumstances. He constantly brings forward the people as having usurped the government, trampled upon the constitution, and violated all the sacred rights of freemen, when no one knows better than he that such was not the wish or intention of the Vigilance Committee. Their only object and their only action was for a moment to assist an imbecile government and put paralyzed law upon its feet. He talks of the sacredness of statutes, constitutions, and legal forms, as Moses would talk of the ten commandments. Angels and ministers of grace! Sacred! How sacred a scene was Ned McGowan passing sentence on a pal! This magistrate, by the way, in common with other noted rowdies, he always mentions most respectfully, most tenderly, as if fearful of hurting the villain's feelings, calling him 'Judge McGowan,' and the 'Honorable Edward McGowan.'

The Committee found it necessary to search certain private rooms suspected of harboring criminals, and although exceedingly guarded in the exercise of this duty, and publicly disclaiming "any intention of availing itself of the power of searching private residences or rooms for the purpose of arresting criminals, without receiving permission from the proprietors of the suspected localities, unless such search is countenanced and aided by the city authorities, under the customary warrants," yet the *Herald's* editor indulges in lengthy tirades against the despotism of domiciliary visits and the violation of the sanctity of households.

The term revolution was often applied to the movement by the law and order party, which unless a

moral revolution was meant was manifestly wrong, for revolution, in its ordinary sense, is a radical change in the political constitution or government of a country. These wilfully blind well knew that it was not the overturning of the government, but of criminals unwhipt by the government, and whom the government claimed the exclusive right to punish and would not, that the Committee of Vigilance sought. There was not a man of them who would soil his fingers with law, government, or punishment, if those elected for that work would perform it. It will not do for a man to be vehemently partisan in politics or religion if he wishes to remain honest.

It was a lofty tone he sometimes assumed. "We are too firmly wedded to principle to think with serious concern of personalities," says the issue of May 29th, which I am uncharitable enough to interpret: "I have taken this step; I regret it exceedingly; I cannot go back, for then I would lose my law and order friends without gaining my former position among the merchants. Then the humiliation of recanting; I would sink the paper first. So I will brave it and make the best of it." There was no principle involved; it was merely a matter of opinion as to whether the law could cope successfully with crime without the untrammelled aid of the people. The principle of the matter this editor determined for himself five years previous when he pursued a directly opposite course; and he repeatedly says that his opinions are the same. "We stand now precisely where we stood then. The only difference is, that we now uphold the laws and their administration, because the safety and well-being of society are involved in their maintenance. Then we justified the resort to extra-legal and extra-constitutional courses because the very existence of society and of our city depended upon such resort. The law of revolution is the law of necessity. When the necessity no longer exists, the right ceases. The necessity did exist in 1851, and it

does not exist in 1856." Clearly, that is to say, the principle of the thing is the same now as it was then; the right to revolutionize when the necessity exists is admitted by this champion of law and order; the necessity did exist, it does not exist now. Three thousand merchants and others, having as much at stake as the editor of the *Herald,* think the necessity does exist now. And this was all the foundation for that war of words, that pugilistic logic and parade of legal lore that for years divided the city into factions. The insignificance of the thing is only equalled by its absurdity.

Hear what Mr Dempster says of Nugent: "The very morning after the assault the proprietor of one of the most influential journals, who had cause for jealous dislike of King, editorially described the assassination as an affray, and earnestly besought the public to refrain from any infraction of the law. This editor had been an active and prominent member of the previous Vigilance Committee, and continued its ardent defender, but now appeared to think the shooting of a rival editor a crime which concerned society less than he had previously regarded the theft of property. He had a courageous combative temperament, and having taken ground against others following the example he had set, sought to create as strong an opinion against the organization of a second as he had excited in favor of the first Vigilance Committee which he had aided in establishing. His efforts had much to do in consolidating the opposition to the second Committee, and inducing the authorities to gather arms and drill militia for the purpose of conquering the traitors; and there would probably have ensued a military conflict with great destruction of life and property, if the overwhelming numbers of the Committee had not awed many adversaries, and the watchfulness and skill of its officers caused the capture of a large portion of the war material which their adversaries were accumulating."

Seldom have I met a man toward whom my sympathy went out as toward Mr Nugent. Small, of light complexion and delicate features, soft and slow of speech, modest and sensitive, yet lion-hearted and intellectually great withal, he deserved a better fate. This one great mistake hovered like a spectre over all his after-life. And though the assertion may seem paradoxical, it is my opinion that this man at this juncture could in no other way have served his country so well as in taking and maintaining the ground he did—that is to say, fighting under the banner of error was, in this instance, likely to prove productive of more beneficial results than fighting under the banner of truth.

The danger lay, not in the hanging of criminals and the ferreting of crime, but in the fostering of a spirit of mob violence and lynch law, fostering in fact the very spirit the Committee sought to crush, that of every man or band of men taking the law into their own hands, and righting their own wrongs, when there existed no necessity for such a course. And in this way Mr Nugent assisted Mr Coleman. Had the advocates of law and order taken this ground only, I should be with them heartily. What I object to is their accusing these patriots, or more than patriots, of wickedness when they should have ranked them among the most righteous. They might bewail the necessity for such a course, the necessity of ignoring for the moment the presence of law, as they would bewail the necessity of the amputation of a limb, but when they saw that putrefaction had set in, and that the whole body politic was in danger, they would praise the surgeon for his cruel kindness. They might even say to him, "Now that you have cut off the diseased limb do not cut off any more;" but to blame him for resorting to the only method possible for curing the disease, to say to him, "How can you so sin against the sacredness of the body, born of God, as to raise your knife against it?" is childish. The fear was that

a sentiment would spring up throughout the state favorable to mobocracy, and the *Herald* did much to check it. It is not always he who shouts loudest for God that does the most good; praise Satan somebody, lest we forget he lives.

CHAPTER XIII.

TRIAL AND EXECUTION OF CASEY AND CORA.

> See they suffer death;
> But in their deaths remember they are men,
> Strain not the laws to make their torture grievous.
>
> *Addison.*

No sooner were Casey and Cora secure in the vigilant cells than arrangements were made for their trial. The first question to determine was whether there should be selected a jury of twelve, or whether there should be a greater or a lesser number. After some discussion it was finally resolved that the executive committee should act as a court. Counsel were assigned, each making his own selection, and every step being taken to give them a full and impartial trial. The prisoners, both of them, had expected immediate execution if they fell into the hands of the Vigilance Committee. They could hardly credit the promises of their captors made them at the jail; particularly when, on being brought out, they saw the angry thousands. Now they were again assured they should have a trial, that witnesses should appear for and against them, and upon the proofs adduced judgment should be rendered.

Mr Truett had pledged Cora that he should have an impartial trial; that it should not be immediate; that he might see Belle Cora; and that in case of conviction he should be permitted to see friends. The pledges of Mr Truett were ratified and observed by the executive committee. The sergeant-at-arms was instructed to make proper arrangements for the comfort of the prisoners.

Neither attempted to deny the slaughter of his victim, but sought to excuse the act—Cora upon the plea that he had been assured that Richardson was a vindictive man and he feared his own life would be forfeit if he permitted him to live, and Casey on the ground that he had given King time enough to draw and fire if he desired. He acknowledged that he had served a term in the New York prison under sentence for burglary, but said he had determined to prevent the publication of the fact in California. The excuses were at best but excuses, and entitled to little consideration in this connection. Half the world could produce just as good reasons for killing the other half. There was no evidence that Richardson sought Cora's life. If he had he could easily have taken it. Casey's plea even in those days of easy shooting was lame in the extreme, not worthy of notice, and even this was disproved by several witnesses. How easy it would have been to have convinced before a court some one or more jurymen with more conscientiousness than common-sense that Casey killed King in self-defence! How many of King's enemies would gladly have sworn to some movement of the victim's hand, which an intelligent jury summoned under forms of law would have construed into a threatening demonstration which justified Casey in firing first!

Monday, the 19th, the executive committee were in session all day. A notice was posted at the door of their rooms stating that any who desired to assist the Committee in the performance of their duties could do so by enrolling their names at the house of the engine company, on Pine street, and holding themselves subject to the order of the executive committee. Throughout the day members were in session at the several sub-committee rooms where the utmost harmony prevailed.

Casey was permitted to see persons on business matters, but none could approach him nearer than a distance of ten feet, and then only in the presence of

some member of the executive committee. He was also permitted to write to his mother and others, his letters to be entrusted to the executive committee. Archbishop Alemany requested access to him as spiritual adviser, but the Committee decided that such service must be deferred until its necessity was certain.

Encouraged by the unexpected evidences of dispassionate impartiality, the prisoners asked for counsel other than members of the tribunal. "How shall our judges be our advocates?" they asked. But they were firmly informed that no outside counsel, any more than an outside judge, would be tolerated. The tribunal was not after innocent blood. Advocates should not act as judges, but should perform the duty of friend and counsel in all integrity and to the best of their ability.

The Committee claimed that to the lawyers society was indebted for at least half the ills arising from uncaged criminals and maleadministration of the laws, and they determined that lawyers should have nothing to do with their trials. What they wanted was justice, not fustian. If that was law, well; if not, so much the worse for the law. And the right they could determine without the aid of learned judge or statute-book. And here let me say that these unsophisticated attorneys entered on their duties in every instance fully resolved to clear their client if it lay in their power; and so fully carried away by their cause were they that in every instance he who defended a criminal, ever afterward asserted a belief in his innocence; and if he cleared him, they were friends for life. The prisoners were moreover informed that they could summon and question any witnesses, and if the trial went against them they could have the benefit of clergy, if they believed in such benefit, and be permitted to see their friends. Shortly after proceedings were begun the following letter was received:

"*To the Executive Committee:—*

"GENTLEMEN: I am credibly informed that James P. Casey and Charles Cora, both clients of mine, are in the custody of the Committee of Vigilance.

Being one of their counsel, I am desirous of seeing whether they wish to hold any communication with me. If so, you will confer a favor by admitting me to an interview with them. Respectfully,

"GEORGE F. JAMES."

Mr James was informed that the prisoners Casey and Cora did not require his services.

A committee of surveillance, consisting of Dempster, Burns, and Jessup, were appointed as guard over the prisoners; and it was ordered that all communications and business connected with the prisoners pass through their hands for inspection and consideration. They alone were to hold intercourse with the prisoners; they were to have access to the records of the committee on evidence, and were empowered to communicate with any persons in this connection with whom they saw fit to do so.

During the trial of a prisoner none were admitted to the executive rooms except the chief of police, the accused, and his witnesses. In all meetings there was full parliamentary usage, and at the trial of a prisoner regular court proceedings. John P. Manrow, who in his narrative to my stenographer explains many points not touched upon by the others, occupied the chair in most of the murder cases. In the trial of Cora he was appointed to prosecute the prisoner, and Mr Coleman presided over the deliberations of the tribunal.

The form and order of trial was then made known to the general committee, and the work proceeded without delay. Every member of the court was sworn to give a verdict fairly and honestly according to the testimony. In these cases, to expedite matters, a committee was appointed to aid the counsel in obtaining testimony, with power to increase their number from the general committee if desired. These appointees proceeded industriously to the work assigned them. A committee on evidence was appointed to collect testimony. The desired witnesses were summoned by the sergeant-at-arms. No one, not even a member of the executive committee, save the

committee of surveillance, was permitted to visit the prisoner Casey—so it was ordered by the Committee on Monday. The members of the executive committee were to render their decision by ballot; it was resolved that a majority could convict, and that the verdict should thereupon be declared unanimous, and so presented to the general committee as a unanimous vote of the executive body. Every member was to put his name to his vote. Before proceeding to trial the tribunal in a body took the following oath: "We hereby pledge our sacred honor to God and to each other, not to divulge the votes taken in our verdicts rendered in the trials of Cora and Casey to any living being outside these rooms. So help us God."

Cora was brought in by the war committee Sunday afternoon. It was then resolved that the trials of Casey and Cora should rest until Tuesday, the 20th, at twelve o'clock. On Monday Cora asked to see Mr Truett, and permission being granted by the executive committee, Mr Truett visited him. He was quiet and courageous; and regarded Mr Truett as his friend. Had he not killed Richardson, he would have been killed by him, he said, and had not Casey shot King he would have had no trouble. Poor Cora! His life was not much to another, but it was everything to him. As the old Scotch woman remarked when she saw the head of the duke of Hamilton rolling from the block, "It was nae great head in itsel, but it was a sair loss to him."

The Committee applied to the physician of Mr King to ascertain if he might with safety give evidence in the trial of Casey. The physician replied that Mr King was not then able to testify. A committee of five was appointed to confer with Mr Casey and obtain from him all possible information concerning his abettors and accomplices in the assassination. The chairman of each committee was permitted to withdraw from the tribunal, and a majority of each committee in session pending the trial was pronounced

competent to transact business. After the beginning of the trial the Executive was to take no recess of more than thirty minutes until the trial should be ended. One member was appointed to ask questions during the trial, and no other person was permitted to interrogate until after the general examination was over; then any one might cross-examine.

At the hour appointed, namely at twelve o'clock on Tuesday, the 20th, Charles Cora was brought before the tribunal. On entering the executive chamber he made his obeisance in a modest manner, and addressing his august judges he begged that the fermentations of the hour might not prejudice his case, and hoped he should have a chance for his life.

He was then invited to select from the members of the Committee one to assist him in defending himself on a charge of murder, for which offence he was now on trial. After a moment's pause he named Mr Truett. Not liking to assume the entire responsibility of the defence, Mr Truett asked that Mr Smiley might assist him, which request was granted. Cora then entered into consultation with his counsel, and soon after the examination of witnesses began. Nearly every witness that appeared at court was brought before the Committee. During the trial, that is to say at about half-past one, the grand marshal appeared and announced the death of James King of William. The marshal was directed to notify the assembled multitude that the trials of Cora and Casey were progressing with proper deliberation.

When Casey was told that King was dead, a deadly pallor overspread his face, and he trembled in every limb. Like Eugene Aram, he feared his murdered victim dead more than living. That announcement was the sounding of Casey's death-knell. Whatever hope he may have entertained before, he had none now. In the hands of his judges it was a simple, alas! for him, too simple, proposition; Casey killed King; Casey must die. Friends should nothing avail;

money should avail nothing. There was here no opportunity for bribing judges, for packing juries, for appeals, and new trials. Casey had reckoned without his host. He had thought, and so his friends had assured him, that he would never be hanged for the killing. King had too many enemies at court; he had exposed too much villainy for serious harm ever to come to his exterminator. There would, of course, be an arrest, a trial, possibly a conviction of manslaughter, but indeed there was no danger of serious results. How different the reality! The moment he heard of King's death, the matter seemed so serious to him that he immediately sent for his man of business, arranged his earthly affairs, ate and slept but little, paced the floor, and held long and earnest converse with his ghostly advisers. Let us hope that they did him much good, lending him wings by which to waft his spotless soul to heaven.

The testimony in Cora's case was closed; the counsel on both sides addressed the tribunal; the sergeant-at-arms was then directed to remove the prisoner. As he was about to go, the poor fellow hesitated, turned to the dread inquisitors on whose will his destiny hung, thanked them for the attention they had given his case, and the consideration he and his witnesses had received at their hands; then seizing Smiley by both hands, he earnestly exclaimed, "Had my case been presented as well before the courts, I should not now be here." He was declared guilty of the murder of Marshal Richardson. Thus his trial ended.

At six o'clock the tribunal took a recess until eight o'clock. At eight o'clock James P. Casey was put on trial for the murder of James King of William. He was prosecuted and defended by the same persons, before the same tribunal, which after due deliberation adjudged him guilty. When informed of the result, the courage of Casey gave way, and from that hour he was greatly depressed. Cora, the brave little

villain, said never a word but that he would see Belle, heaved never a sigh but for the hastening of her coming. What may this thing be, oh thou whose name is Love! and whence is it, heaven-born or begot in stygian pools, that the presence of a prostitute for a few short hours should seem to take the sting from death itself? Watkins was ordered to go for her with a carriage. He brought her to the rooms by the rear entrance from California street, the other streets at that time being impassable on account of the military, who had taken possession of all approaches to head-quarters. After a short interview with the executive committee she was admitted to Cora's cell, where the two were married between eleven and twelve o'clock on the 22d, by Father Alcoty, the priest refusing to absolve Cora unless he first married his *inamorata.*

All testimony was taken down in writing and is now before me. Guilt in both cases was conclusive, and both were sentenced to be hanged, the day not being immediately fixed. Cora was convicted by a bare majority; Casey by a unanimous verdict. The testimony was read in full to the board of delegates, and the finding of the executive committee was unanimously approved by them. Before voting, the following oath was taken by the delegates: "We hereby pledge our sacred honor to God and to each other never to divulge the vote to be taken by this body, as a verdict on the trials of Cora and Casey, to any living being outside these rooms, and also not to divulge the proceedings of this meeting until such shall have been declared to the general committee. So help us God."

The matter of time and place of hanging was left to the executive committee. The execution was appointed for the 23d, but was subsequently changed to the 22d, between the hours of twelve and two, the day and hour on which King's funeral was to take place. And this for obvious reasons. It was meet the murderer should quickly follow his victim; much more time

and consideration had been allowed him than he had given. Then the people would be better satisfied, and the lesson more striking and solemn.

The testimony implicated another managing politician, Edward McGowan, who in connection with a subordinate tool by the name of Wightman was indicted by the grand jury as accessory before the fact, but both had been spirited away by their associates, and the Committee during several months expended much time and money in pursuing the former in distant parts of the state. It was indeed a sad state of things when a scoundrel felt obliged to run away from a profitable field because he could not buy or manufacture justice. The adventures of this redoubtable man will be given at length in the next chapter. In the midst of the trial the sheriff and his deputy appeared at the door of the Committee rooms, armed with a warrant growing out of this indictment, and demanded the prisoner Casey. The reply of the Committee, as found in the record, is unique. The Committee were satisfied that the sheriff and his deputy had performed their duty according to law, and the Committee had no further communication to make.

Casey spent most of the time now remaining to him in arranging his affairs. In regard to the night preceding his execution, the *Chronicle* of the 23d reports: "He was restless, and passed a portion of it walking up and down. He was heard to exclaim, "Oh, my God! has it come to this? Must I be hung like a dog? During the first two or three days I might as well have escaped from jail as not; I only staid there for Scannell's sake!"

Early in the morning of Thursday, the 22d, the guard round the Committee rooms was augmented. Several companies of infantry were drawn up in a line on Sacramento street, from Front to Davis, cavalry were paraded up and down all the streets in the vicinity, and the house-tops adjacent were crowded with armed men and spectators. The field-piece for-

merly used at the jail was brought and placed in front of the Committee rooms. There were the usual horror-hunters abroad at an early hour, although the impression prevailed that the criminals were not to be executed till the morrow. Thus waited the assemblage patiently all the morning.

At a quarter before one two small platforms were thrust from two of the windows of the Committee building, extending about three feet beyond the wall. An instant afterward two beams appeared shoved out from the roof directly over the platforms. At the ends of the beams were fastened noosed ropes, and ropes reaching from the roof were also attached to the platforms, so that both could be dropped simultaneously. At a quarter past one a white paper was thrown from the window, and the guard below was ordered to present arms.

Both of the condemned wished to see priests; and immediately after their conviction Archbishop Alemany and Father Gallagher were admitted to their presence. Casey was permitted to see friends and to arrange his earthly affairs. The following letter, addressed to the editor of the *Herald*, was delivered by order of the Committee:

"San Francisco, May 22, 1856, half after twelve.

"To John Nugent:

"you have not Judge me to gratify the publick may god bless you. If you will pleas to see Estell, Farley, Alderman Peckham, and others, you may yet satisfy the Publick you are right. I am innocent of murder or an attempt. Farewell. For my mother sake save my name in New York.

"James P. Casey."

The question of executioner arose. Several names were mentioned, but none cared to assume the odious office. Finally a well known merchant remarked that he knew one who would do it, but he was in the ranks. Immediately Watkins wrote an order on the captain of the division for the man named to be detailed for special duty. It was none other than Sterling A. Hopkins, of whom more hereafter. This man performed the

duties of hangman, and performed them well. In this business hangmen were as necessary as presidents; and to hold that the honorable Executive planned work dishonorable to perform would but be like the many sophisms by which we sing ourselves upward and onward. At the same time none of us would care to hang Casey or Cora. To say the least, it was not a pleasant duty; neither was much of that which was done in this connection by better men than we.

Two Catholic clergymen continued to attend the prisoners during their last hours. Both were penitent, both made their last confession, and to both was administered the sacrament. They were then informed that their hour had come. Their shackles were taken off, and their arms and legs were bound with cords. Over the face of Cora and round his neck a white handkerchief was fastened, and thus he was placed upon the platform and the rope adjusted round his neck. And there he stood, motionless as a statue, without the utterance of a word or the movement of a muscle until his soul was launched into eternity.

Casey wished to address the assemblage. Hence he was permitted to appear upon his platform as he desired, with head bared and a white handkerchief in his hand. With pale face and bloodshot eyes he stammered through an incoherent speech, made up mostly of ejaculations, denials of guilt, expressions of concern lest his name should be immortalized as that of a murderer, and of confidence of having made his peace with his maker. "Gentlemen," he cried, "I am not a murderer! I do not feel afraid to meet my God on a charge of murder. I have done nothing but what I thought was right. To-morrow let no editor dare to call me a murderer. Whenever I was injured I have resented it. It has been a part of my education, during an existence of twenty-nine years. Gentlemen, I forgive you this persecution. Oh, God! my poor mother! Oh, God!"

Is it not a little strange that nine tenths of all the

wickedest men that ever swung from a gallows, who received religious attention during the hours immediately preceding their death, die confident of being received at once into glory! It is almost enough to convert us to a life of villainy, and make us covet death by strangulation.

At the end of his speech, which occupied about seven minutes, Casey stepped back inside and received the rope round his neck and a white cap over his head. He then shuffled himself forward on the platform like one groping in the dark. Casey stood on the west platform and Cora on the one toward the east. At the signal both platforms dropped simultaneously. The two men fell about six feet, and died almost without a struggle.

In the room where he died they wrapped in a shroud the remains of James King of William, and the restless ten thousand visited the spot that evening. Two days after, that is to say, Thursday, the 22d, funeral services were held at the Unitarian church on Stockton street, whither the body was borne by the Masons at twelve o'clock, the reverends Cutler, Taylor, and Lacy officiating. The church was crowded to overflowing, and the congregation was literally in tears. In the midst of his remarks Mr Lacy was overcome by emotion. The funeral procession, which was nearly two miles in length, represented all the societies and guilds of the city, besides containing hundreds of horsemen, carriages, and citizens on foot.

Turn quickly, while the undertakers are thrusting the coffined martyr into the plumed hearse, and the long array of mourners are filing after it toward Lone Mountain—turn one glance on Fort Vigilance and its vicinity. All the streets and squares about headquarters are filled with military, as we have seen. The Executive are assembled in a body in the front of the building. The board of delegates are likewise

there convened in full force. At twenty-one minutes past one the funeral cortége of Mr King moves, and all the bells of the city toll their solemn requiem. At that moment the military present arms; the signal is given, and James Casey and Charles Cora drop into eternity.

On Thursday morning at half-past ten the steamship *Golden Age* arrived with twelve hundred and twenty-one passengers. In crossing the Isthmus these passengers had undergone the horrors of a serious railway accident, in which fifteen of their number had been killed and sixty wounded. Besides their own troubles they could talk of late outrages committed there in which others had severely suffered. Arrived at San Francisco, they found the city in a turmoil, public places closed, flags at half-mast, and houses draped in mourning. Scarcely had they time to deposit their luggage at the hotel and step upon the street when the body of a murdered man with its two-mile cortége was passing by, and two thousand angry citizens were there in arms, and two men swinging by the neck from two second-story windows. If those twelve hundred and twenty-one regarded their entertainment during the voyage, and their reception on the shores of the Pacific, too tame for them, they were indeed hard to please.

Within a week after Mr King's death a communication appeared in the *Bulletin* over the signature "Many Women of San Francisco." After praising the deeds of the Committee it said: "But, gentlemen, one thing more must be done. Belle Cora must be requested to leave this city. The women of San Francisco have no bitterness toward her, nor do they ask it on her account, but for the good of those who remain, and as an example to others. Every virtuous woman asks that her influence and example be removed from us. The truly virtuous of our sex will not feel that the Vigilance Committee have done their whole duty till they comply with this request."

There, my sisters, you do yourselves great wrong. With your own hands you would heap agony and indignity on the head of one already overwhelmed with sorrow. She is a sinner; so are we all. She has just buried her lover, her husband, whom, though a murderer, she attended to the last moment of his life, and through an agonizing death. Him your husbands and brothers have killed; is not that at their hands punishment enough upon her for being an unfortunate fallen woman? Ay! bristle as you will in your immaculate wrath, I tell you, proud dames, stainless dames, dames proud of your stainlessness, that but for the providence that plans your destiny or the environment that props and guards you, delivers you from temptation, and makes her sin loathsome to you, you would be like Belle Cora. Had you been born, reared, and circumstanced as was Belle Cora, a thousand to one you would be Belle Cora. Had Belle Cora been born, reared, and circumstanced as were you, a thousand to one she would be as pure and as proud of her purity to-day as are you. Environment and circumstances make us, nine parts in every ten. Perhaps we do the rest. How can you then so loathe and persecute your frail sister! You say it is not she, it is her sin you hate, and you would drive her hence not to punish her, but to protect society, to save your daughters, to maintain morality at the current standard. Softly! softly! That crime in a man, in your male acquaintance — in your brother, even — would you so hate it there? Are you sure it is the sin only you abhor? You would drive her hence to protect society and save your daughters. She saves your daughters. Who made her what she is? Not she. Not one of your sex. It was your husbands and brothers, or their associates and yours — it was they upon whom you now call to drive her out, it was they who made her what she is. If you truly desire to eradicate the evil, drive out the men. Make war on them. They are the criminals; such as she, the

victims. Indeed it is pitiful to see you tread her deeper into the mire with your haughty feet, while you smile on him who placed her there. How many of your male acquaintances are culpable? How many of them are not culpable? Ask them. Your God, your bible, your creed, your savior make no distinction between male and female sinners; how, then, dare you? Drive out the men, I say; but beware whom you drive, lest you should run after some to call them back. Over woman's wrongs to woman, angels weep.

No, it is false. "Many women of San Francisco" never made such a request. One woman wrote the communication, in which she twice calls herself virtuous. Whether she be virtuous or not, she best knows; but those are not virtuous lines which she has written.

Hear what a true woman says upon the subject in the *Bulletin's* issue of May 27th:

"A woman is always a woman's persecutor. In my humble opinion, I think that Belle Cora has suffered enough to expiate many faults, in having had torn from her a bosom friend, executed by a powerful association. It was just and right that Cora should die, but I contend that by his death the public is avenged. She has shown herself a true-hearted woman to him, and such a heart covers a multitude of sins. This very circumstance of expulsion might be the means of utter desolation of heart. The effects of the tragedy may be the means of improving her moral character and making her socially a good woman. ADELIA."

What a contrast between this and the former communication, between this and the other woman! These lines breathe of virtue, none the less stainless because intermingled with that spirit of divine forgiveness which the dear Christ bestowed on the sinner. Noble Adelia! with thy lofty-minded purity and sweet charity; were all so-called virtuous women like thee, there would be fewer fallen.

Belle Cora kept a bagnio on Waverly place. Like Cleopatra, she was very beautiful, and, beside the power that comes of beauty, rich; but oh, so foul! Flaunting her beauty and wealth on the gayest thoroughfares, and on every gay occasion, with senator, judge, and citizen at her beck and call, and being a

woman as proud as she was beautiful and rich, she not unfrequently flung back upon her stainless sisters the looks of loathed contempt with which they so often favored her. She was what she was, God only knows how or why; they were what they were, being made so. The homely pure hated the beautiful bad in self-defence, so we are told. A little jealousy might have been mixed with their virtuous irritability, because men ran after beautiful badness rather than unattractive goodness; but what sort of citadel is this which fashion provides for female chastity which compels the virtuous woman to fling at the feet of every prostitute she meets on the public streets the gage of battle? Heaven save me and mine from that quality of female virtue which for self-protection must needs at every turn heap scorn and reproach upon the wicked and unfortunate. Says a biographer of one of the purest of English poets: "To be taken into Lamb's favor and protection you had only to get discarded, defamed, and shunned by everybody else; and if you deserved this treatment, so much the better! If I may venture so to express myself, there was in Lamb's eyes a sort of sacredness in sin, on account of its sure ill consequences to the sinner; and he seemed to open his arms and his heart to the rejected and reviled of mankind in a spirit kindred at least with that of the deity." Would to God the spirit of this man, if Christ's be wholly denied them, might fall on our wolfish women.

There are those who hold that Charles Cora should not have been hanged. Members of the Committee, who participated in the trial before the Executive, have expressed to me their opinion that he was not guilty of murder, but that he killed Richardson in self-defence. As a matter of course in his trial before the law court half a dozen witnesses were brought forward who testified that Richardson slapped Cora's face, that Richardson drew a pistol, that a revolver was picked up near his right hand after he had fallen,

and the like. Belle Cora offered a woman, who happened to be passing at the time, a thousand dollars to testify that she saw a weapon in Richardson's hand just before he fell. In criminal cases money and skill can prove almost anything. After the lapse of time, with all the evidence before us, there is no question but that Cora was guilty of murder, and should have been hanged by the court. Even though Richardson quarrelled with him, he need not have killed him. Even though Richardson held a weapon in his hand at the time, the fact does not necessarily imply that Cora's life was in danger. He could have walked away, and Richardson would not have slain him. There was not the slightest danger of it; and even had there been, I had rather be a murdered man than a murderer. That vigilance judges themselves, some of them, should wish to excuse so foul a crime, only shows how totally unfit some men are, from the construction or training of their minds, to determine justice where the life of a fellow being is at stake.

It was a grand old-fashioned Irish funeral Casey's friends gave him. After all he had done something for his party, if he was hanged for it. And the men of law were not ungrateful. Besides there was the King burial display of the vigilants; and the stuffers and strikers must now see what they could do. From the Crescent engine-house, where the body of Casey was taken, eighty-four carriages, eighty horsemen, and four hundred on foot followed it to the Catholic cemetery. It was a grand sight. Who would not die the death of the assassin, if one's end might be like his!

Meanwhile poor Belle Cora could boast of but six hacks at her husband's funeral. She had taken the body from the stern executioners; she was bad, she was very bad, but she was a woman! She took the body and bathed it in her tears. Were they genuine salt-water tears, or were they ditch-water tears? And

six poor hacks held all the gambler's friends, while Casey's proud carcass, which never contained half the manliness of little Cora's, boasted its well nigh six hundred followers. But Cora had the handsomest coffin, thanks to his ever loving mistress-wife; a beautiful affair, they called it—solid mahogany, lined with white satin, sides of gilt scroll-work, silver nails, and a silver plate. Comfortable, but for the dripping grave-walls and the worms!

CHAPTER XIV.

THE HONORABLE EDWARD McGOWAN.

A fine and slender net the spider weaves,
Which little and light animals receives;
And if she catch a common bee or fly,
They with a piteous groan and murmur die;
But if a wasp or hornet she entrap,
They tear her cords like Sampson and escape;
So like a fly, the poor offender dies,
But like the wasp, the rich escapes and flies.

Denham.

Ned McGowan was a genius. He was as great a man in his way, as unique and individual as any who have achieved distinction in the more ordinary paths of life. He belonged to a fraternity *sui generis;* whatever they did was in a way of their own. Their style was themselves; they studied in no foreign school; they adopted no foreign code. Original was their situation, and they were original. In ethics and politics utility was their standard. If falsely testifying and falsely judging would sooner bring about the desired end; if false-bottomed ballot-boxes would bring true and speedy election, when all other means were uncertain, would not a wise man avail himself of the most direct and certain agencies?

McGowan reminds me of Spinoza, because of their dissimilarity. Spinoza was a Jew, born in Amsterdam; McGowan was a Philadelphia shoulder-striker of Irish extraction. Spinoza was slender in form, in complexion olive, frail, delicate, consumptive-looking, and leading the life of an anchoret; *un moulin de raisonnement*, Leibnitz called him, an intellectual mill for the manufacture of syllogisms. McGowan was stout, in

complexion ruddy, frail and delicate in his morality, and exceedingly consumptive about bar-rooms. His mind was a machine, not for grinding out syllogisms, but for turning off a certain quality of men wherewith to fill offices.

Both achieved the full mastery of their abilities. There is sometimes found present in characters where least expected, a dull, heavy harmony, springing from the play of opposite qualities.

Any one can be an anchoret; any one can be honest. It is easier to be upright than dissolute. Any one can thieve and be caught. Much talent is required to achieve an occasional misdemeanor, and still be able to walk the streets a free man. When therefore we encounter a character rich in honorable rascality, which throughout a long and illustrious life has occupied a front rank in professional scoundrelism, and has attained old age still happy in that equipoise which brings success, we may safely conclude such a one to be nothing less than a genius. Honor to the honorable Edward McGowan! He lived long and prospered. He reaped by wickedness that which few can attain but by a life of laborious virtue.

Ned was bad enough, but he gloried in a reputation for being worse than he was. The great mistake of his life was not in adopting rascality as a profession, for in that he succeeded very well, but it was in writing a book. Conscious of the sacred fire within him, he could not die and tuck his soul beneath the shades in comfort, never having shed ink. His work is a kind of Knave's Rest. It is entitled *Narrative of Edward McGowan, including a full account of the Author's Adventures and Perils, while persecuted by the San Francisco Vigilance Committee of 1856. Published by the Author, 1857.* Posterity might have forgiven everything but a hideous picture, of the bull-dog style of beauty, yet a faithful representation of himself, which he put on the cover. How vanity blinds one! Had this man sought to convince the world of his inherent

brutality and baseness, which in truth was the opposite of his purpose, he could not have found a more direct or certain method than by publishing his likeness, in which was a grotesque melancholy, as of one more sinned against than sinning, overspreading features stale with gin and iniquity; long greasy hair, covering high, pointed brain-chambers behind a mansard forehead; sinister eyes, piggish cheeks, and a cataract of bristles on the upper lip—these mark the returned exile who, in the pages accompanying this model representation of human debasement, casts himself upon a prejudiced public.

In all this the honorable Edward did himself great injustice. A portrait published in the *Police Gazette*, at the time a reward was offered for his apprehension, was much handsomer. In truth a jolly villain was the judge. A sight of his fat, flabby face, his kindly eye, beaming blood or festivity according to circumstance and potations, with Greeley hat covering low the brain which had planned and plotted to the owner's eternal renown, was better than a whole night's revel unaccompanied by his genial presence. Nevertheless we will in this instance go by the book, and take him at his own imprinting. There is still to be seen, on pleasant afternoons, at the time of this writing, loitering along the sunny side of the streets in San Francisco, a neatly though somewhat loudly dressed white-haired and white-hatted man, who delights in the name 'Ubiquitous,' whose military mustache is now bleached by gin-fumes and some sixty-five years of sinning, and whose history, like that of many another poor straggler along the same streets, is full of romance.

The portrait upon the book, however, is the man; and his life, the words which follow, are empty wind. Characteristic of his writing is the appearance of the author's belief in his own innocence. This ghost of sincerity is carried to the verge of irony through every page. Like the frail damsel who bewails her

lost virtue by superfluous asseverations of her purity, Ned harps upon his honor, his wrongs, and sufferings until the most stupid reader cannot but detect the hollowness of the strain. And yet tinged with such sombre shades, in some measure, are all good and great men of virtue and genius born.

Mr McGowan's book opens with an introduction full of bogus pathos, in which he strikes the attitude of martyr, and ranges the members of the Vigilance Committee round him as fanatics. This is truly placing matters in a new light. It reveals to our understanding a view from the other side, which simple thought and research could by no possibility obtain. We thank the judge for this illumination. We would if possible concentrate light and pour it upon this subject until through it and on every side of it all is as clear as crystal. After diligent search I find nothing in Ned's martyrdom unusual to the suffering people of Satan. He was persecuted for the truth; in this he says rightly, for it was true that for which he was persecuted. They who did it were fanatics; that is to say, in the same sense that Ned was a persecuted saint.

The honorable Ned says he entered political life in 1837, was made five times district clerk, and in 1842 was elected to the legislature of Pennsylvania, of which state he was native. He says nothing of the Chester County Bank robbery, of which he was ashamed; nor of the time prior to his politico-pilfering career, when he was compositor, a swift, industrious craftsman, of irreproachable character, a compositor in the printing-house of Adam Waldey, of which honest occupation he was no doubt also ashamed.

To this book, I must say, we are indebted for very little information of any kind. What we would know of Ned himself, and of his doings, we must seek from other sources. In the latter part of 1835 he began to be seen about the democratic primaries and public meetings in Philadelphia, where his ready intelligence

and fiery spirit soon caused him to be marked as a rising star among the tough old politicians of the democratic *régime*. He was soon master in the art of managing elections, and was courted by the great ones of his party as a young man who had merit in him and was useful to the country. He soon fell into the evil ways of the politicians, and began to loiter about drinking-saloons and gaming-tables, where his wit, dash, and fluency as a tap-room orator made him always welcome. He began to read law, also, and was elected clerk of his political district. He continued to rise in the favor of his party, and was finally elected a member of the assembly. At Harrisburg his youth, pluck, and proficiency in all the arts and wiles of the politician rendered him conspicuous, and he soon plunged into the arena of debate with a violent speech, abounding in the grossest personalities, against the governor of the state. The *State Capital Gazette*, in an article reviewing this speech, excoriated the young Demosthenic bully mercilessly; and the next morning, McGowan seeing the editor, Mr Brannan, seated at a desk in the hall of the assembly, deliberately walked up and stabbed him, inflicting a serious but not fatal wound. His political friends shielded him from punishment, but he was counselled to resign his seat and return to Philadelphia, which he had the prudence to do, and was soon afterward appointed a captain of police. At this time he had ripened into an accomplished *roué*, and was the boon companion of some of the most dissolute characters in the city. Then followed the Chester County Bank robbery and the flight of Captain McGowan. He was apprehended in the western part of the state disguised as a drover, with some of the stolen money in his possession, and was brought to Philadelphia, and after undergoing a form of trial escaped to California, arriving in San Francisco in 1849, and entered *con amore* upon the wild life of the time and place. He soon became a power with the democracy here, presiding in conventions and man-

aging elections in a royal manner. A special bill for his relief from the Chester County Bank difficulty was passed by the California legislature, and he was cheek by jowl with the greatest men of his party. He was elected a justice of the peace, and his court was the scene of many fierce battles among the windy votaries of the law. In 1851 we find him sitting as associate justice in the court of sessions. He resigned his legal sceptre after a time, however, and was appointed commissioner of immigrants by his friend Governor Bigler. This was a remunerative office, and the gay and eccentric McGowan is supposed to have made the most of his golden opportunities, as he basked in the smiles of the most charming and costly cyprians, and floated in oceans of champagne. He was involved in a number of amours and intrigues, and would brook no rivalry in affairs of this kind.

In June 1851 John Nugent was indicted for sending a challenge, and brought before the court of sessions, Campbell, judge, and Brown and McGowan, associate justices. Weller and Heydenfeldt were Nugent's counsel, and McGowan was his friend. This and other favors Nugent never forgot. Ned was then an upright judge, and had nothing to fear from the newly organized Vigilance Committee, especially as long as he had a friend at court in the person of the editor of the *Herald*, one of the chief supporters of the cause.

Upon the minutes of a general meeting of the first Committee, held the 22d of July 1851, Selim E. Woodworth in the chair, a motion was made by Mr Brindley, and adopted, that:

"WHEREAS, E. McGowan, formerly a police officer in the city of Philadelphia, now an associate justice of the court of quarter sessions of the county of San Francisco, was convicted of being an accomplice in the robbery of the Chester County Bank, in the state of Pennsylvania, and obtained a new trial, on which he escaped conviction from the absence of witnesses who had testified against him on the former trial; and whereas, the said E. McGowan has been charged with official corruption by a grand jury of the said county of San Francisco; therefore, be it

"*Resolved*, That if these charges be true it is a disgrace to the county to tolerate him in the position he occupies; and be it further

"*Resolved*, That the executive committee be directed to investigate the matter and report to the general committee; and if their report furnish sufficient grounds, in the estimation of the general committee, that he be requested to withdraw from the bench, under penalty of the said report being published to the world in case he refuse."

There never yet was a man just because he was judge, though many may have been made judges because they were just. Ned was neither the one nor the other; he was not judge because he was just, not just because he was judge. And there were others like him in those days.

On the fatal afternoon when James King of William fell before the pistol of Casey, McGowan is known to have armed himself with unusual care, and was heard to say, as he hurriedly glanced at the paper containing the article abusive of his *quasi* friend, "Casey will attend to that!" And this notwithstanding Casey and McGowan were not just then upon the best of terms. In virtue they were enemies; in vice, friends. Often it is easier to quarrel with a friend than to discharge an obligation.

The testimony that was given at the coroner's inquest showed plainly enough that McGowan knew what was going to transpire that day, and stood around whiling the leaden hours away with gin cocktails as he awaited the portentous report of Casey's revolver. The fact does not, standing alone, condemn him as a malefactor of the blackest type. Those were hard days. Casey had his quarrel to dispose of according to the savage practice of the time, and McGowan was simply loitering and listening with a friendly interest in the event, which in the lurid heat of the people's mighty passion made an ugly-looking case for him, and actually imperilled his life. The fearful uprising of the people, and the swift and menacing action of the executive committee, soon hedged McGowan about by imminent danger. The grand jury indicted him as accessory before the fact to the murder of

King, and the vigilants rushed forth on his trail. McGowan went into hiding promptly, and began that interesting series of experiences as a fugitive from the terrors of the Committee, which he so feelingly sets forth in his book.

On Tuesday, the 20th of May, as the bells tolled the departure of James King of William, Casey lifted his eyes in his cell as the slow and sorrowful knell struck the air, then bowed his head in his hands with a sigh of despair. It was an ominous and terrible sound to Edward McGowan likewise, and he knew that he must fly for his life. For ten days he lay concealed in the rooms of a friend in Commercial street; meanwhile the emissaries of the Committee were putting forth every exertion to find him. He finally was compelled to venture out, and, disguised and heavily armed, he made his way to another place of concealment on the road to the Mission Dolores, in the house of an old lady, where he remained for a month. While there he frequently saw companies of vigilants out on drill, and the sunlight flashing from their polished arms aroused mingled emotions.

On the 27th of June, with the intention of making his way to Philadelphia by the southern route through Mexico, McGowan, accompanied by a friend, started south, travelling with elaborate caution and assuming disguises, chief among which was that of an American priest examining the missions for the purpose of writing a book. Reaching a rancho in the vicinity of Santa Bárbara after a long and arduous journey on horseback, Ned paid his respects to the Fourth of July by exciting an old Mexican to intoxication. This made the Mexican's wife angry, and perhaps Ned was never at any time, during the period of his flight and concealment, in greater danger of utter annihilation, and he was almost constrained to wish that his country had never been born. I may here remark that in the narration of Mr McGowan bottles of whiskey, and bottles of brandy, and bottles of low

degree waltz up and down in gorgeous procession, shedding a tropical glow over the rocky pathway of this distinguished man.

Certain persons who knew McGowan recognized him in the streets of Santa Bárbara, and raising the alarm a mob was gathering to apprehend him, when a horseman dashed up, and leaping to the ground caught Ned by the hand with the rapid exclamation, "They are on your track, Judge; trust yourself to me, or you are lost!" It was Jack Powers, the robber chief, whose career on the road had won for him the weird title of Destroying Angel. Following the highwayman at a run down a narrow street, McGowan was passed by him through an open window into a room where there happened to be lying loosely on the floor some forty yards of carpeting, into which he was rolled and left to lie there like a gigantic cocoon. Jack then sprang out through the window and led the noisy chase after an imaginary McGowan, rendering himself conspicuous by his energy in the matter, but never finding his man. Eventually, however, the pursuit became so warm that a Spanish friend of Ned's, desiring to throw his enemies off the trail, started a report that a man was seen skulking into a tule swamp near town, and thither the clamorous crowd turned, thinking the game was at last in the toils. The tules were fired, and crackled with empty exultation before the evening wind, as McGowan lay suffering with thirst and fighting millions of fleas in the roll of carpeting. That night, with the assistance of Jack Powers, he managed to escape to the mountains back of town, and hid himself in a thicket. There he remained all the next day, and slept in an oatfield the following night. Hunger at last drove him to a neighboring rancho for food. Wandering about, he lost himself, and at last, by good fortune, fell in with Jack Powers again, who put him upon a mule, and conveying him to the Arroyo Hondo, placed him in charge of a Spaniard and his wife, with the request

that they should take care of him until the hunt was over. Here on the Arroyo Hondo, in a wild and lonely cañon whose rocky walls forever echoed the melancholy thunder of the neighboring sea, the hunted man rested from his fears for a while and undertook to recuperate his wasted frame on a diet of jerked beef and *pinole*. The inevitable brandy-bottle *chassez* into this idyllic pause in the sounding epic of our honorable judge, in a little anecdote which fitly illustrates the fathomless treachery of the native Californian character in all exigencies involving the care and custody of the amber-hued stimulant which usually attacks society under the familiar legends of Hennessey, Martel, or Noble. Ned had despatched one Pedro to town for a number of articles, including a bottle of the liquid alluded to, which errand Pedro faithfully performed, with the exception that he had transferred the brandy to an original Californian package, and was heroically cheerful under the trying circumstances of the hour. He gravely reported that certain friends of McGowan's objected to his being furnished any more liquor, for fear he would be guilty of some imprudence; consequently he had ground the bottle to powder under his heel, and had scattered it to the winds.

Things went smoothly enough until the night of the 14th of July, when General Covarrubias, of Santa Bárbara, a friend of McGowan's, galloped up to the door and informed him that a detachment of twenty or more vigilants had arrived at Santa Bárbara by the San Francisco steamer, and were going to renew the search for him. Packing a mule with blankets and provisions, he went back a little distance into the mountains where the chaparral grew in densely woven thickets, and remained there for a week, visited only by the little son of his host on the Arroyo Hondo. While sleeping out in the cañon, about this time, Ned was crawling into his blankets one night, when a movement and an ominous whirr

started him in terror to his feet. The blankets having been displaced by the action, a large rattlesnake glided from his bed and coiled itself menacingly before him. When we consider the quantity of Mexican brandy the exile was absorbing in those days, our sympathies naturally fall on the side of the serpent. It was perilously near biting the wrong man.

Relaxing his watchfulness somewhat, Ned was refreshing himself with a bath at a little spring near the dwelling of his friends one afternoon, when the boy accustomed to carry him food came running toward him from the house shouting breathlessly: "Los hombres en la casa! vigilantes! escopetas! vamos! vamos!" Ned again escaped to the friendly shelter of the chaparral, and calmly waited for the danger to pass.

Two Americans, one of them named Meacham, the keeper of the light-house there, and the other a San Franciscan, had visited the house, armed to the teeth, with the intention of taking him dead or alive, but their inquiries failed to elicit anything from the señora or her husband which would betray him, and, having partaken of the repast that had been prepared for McGowan, they rode away. Not long after, other members of the Vigilance Committee, carrying bench-warrants for the apprehension of McGowan, arrived at Santa Bárbara, but could learn nothing of his whereabouts, and so returned. The newspapers of the state were teeming with all manner of false reports and sensational accounts concerning him and his movements, and he was really the lion of the day. Here is an advertisement which appeared in the Santa Bárbara *Gazette:*

"Three hundred dollars reward! It being rumored that one Edward McGowan, a fugitive from justice, on the charge of murder, from San Francisco County, who was last seen in Santa Bárbara, has been murdered for a sum of money known to have been in his possession, the above reward will be paid for the recovery of his body, or for information that will lead to his recovery, by applying to the office of Russell Heath, sheriff of Santa Bárbara County."

About this time McGowan became satisfied that Don Pedro, his host on the Arroyo Hondo, was meditating treachery, and so he determined to seek shelter under the roof of Doctor Den, whose rancho was on the road from the Arroyo Hondo to Santa Bárbara. He knew the doctor to be a friend, and he was loath to trust himself longer to the Punic faith of the native Californians. Arriving stealthily at the rancho, Ned was chagrined not to find the doctor at home, but was more than mollified by the kind reception given him by Doña Rosa, wife of the doctor, who provided for him generously. She also informed him that armed horsemen were continually patrolling the roads in search of him. Leaving a letter for General Covarrubias at the rancho, with the request that it be forwarded at the earliest moment possible, he retired to the mountains to await the reply. There he became lost in a labyrinth of cañons, and nearly perished from hunger and thirst. By great good fortune he at last struck the waters of an arroyo which led him down to the doctor's rancho. General Covarrubias was already at the rancho, awaiting him, and he and Doctor Den received the forlorn fugitive with open arms, and extended to him every kindness. A camp was made for him in the centre of a cornfield convenient to the house, where for six weeks he remained in comfort and security, after which a room was given him in the house during the remainder of his stay.

Meanwhile every now and then a rumor would be started that Judge McGowan was scented, or captured, or tried. Scores of reports of this kind came in from every quarter, from San José, Sacramento, from Napa, from Monterey, from Nevada, and from beyond the mountains. A gentleman wrote from Philadelphia that he was there with him at his house, on Ninth street, below Catherine. So that to Ned was given the *sobriquet* of 'Ubiquitous.'

When tidings of his appearance at Santa Bárbara

reached San Francisco, certain members of the Vigilance Committee waited on Sheriff Scannell and requested the warrant issued at the time of King's murder. The sheriff refused to give it up, but promised to send a deputy after the culprit. As the matter seemed to the Committee to demand haste, they chartered the schooner *Exact*, which with ten of the vigilant police went to sea on the 9th of July. The sheriff's deputy went down on the *Sea Bird* two days afterward. Jack Powers was arrested in San Francisco the 27th of March 1857.

Thus passed about nine months since McGowan left San Francisco. Some time in the month of February McGowan concluded that a reaction in public sentiment had taken place, and that it was possible for him then to appear among his fellow-citizens anywhere outside of San Francisco without danger of violence; so accompanied by a few friends he set out on horseback for Sacramento, where he hoped to procure the passage of a special-legislation act to defeat the ends of justice, allowing him a change of venue from the courts of San Francisco to some other district where he might have a fair trial—that is to say, a trial which would be sure to leave him free. He arrived in Sacramento in due time, when his appearance on the streets in the *outré* costume of his exile created no little excitement, and was warmly greeted by a host of friends and sympathizers. The political friends of McGowan were largely in the majority in the legislative body, and despite the opposition of the San Francisco delegation, a bill was finally passed allowing any person, making the proper showing, to apply to any court where a criminal charge was pending against him for a change of venue to some other court, without the necessity, the *sine qua non* in McGowan's case, of making a personal appearance in the said court. Under the provisions of this act McGowan procured a change of venue to the seventh

judicial district of California, and in May 1857 stood his trial at Napa City, and was of course acquitted.

The *Bulletin* was disgusted. Says the issue of the 3d of March 1857:

"Ned McGowan, the ubiquitous, has actually arrived in Sacramento. This time there is no humbug about it. It is the identical ballot-box stuffer himself. He puts up at the Magnolia drinking-saloon, where during all of yesterday he was the centre of a large circle of admirers with the like of whom this city swarms at present. Sacramento at this time resembles one of the old Jewish cities of refuge, where murderers and other criminals could flee for shelter from the avengers of blood. How long this state of things shall continue depends entirely upon the inhabitants themselves, and of course is no business of the San Franciscans. It appears that owing to the organizations of vigilance committees and sheriffs' *posses*, from San Diego to Monterey, McGowan was afraid his quarters would be beaten up, and that some well intentioned but ignorant party of men might mistake him for an escaped felon or fugitive from justice, and hang him before his friends had a chance to establish his remarkably good character. That part of the country, then, becoming too hot for him, he was forced to look around for one where he would find friends and comrades better able to shelter him, and where anti-hanging prejudices obtain more generally than in the lower country. One of the numerous copies of Estill's speech which were gratuitously placed upon the desks of the members of the legislature for distribution, and were for sale in the bookstores, found its way into his hands. From that, and the fact that it was suffered without opposition, save from a vigilance man, to be read in the assembly hall, he formed his own estimate of the character of the present legislature; and, if he longer hesitated, a copy of the report of the quartermaster and adjutant-general, and notice of the pardon of Stoncifer, and that two of the exiles were here unmolested, must have decided him. It is said that he will now ask the legislature to pass a special act for his benefit, to enable him to be tried here without going to San Francisco. It remains to be seen whether his numerous and acknowledged services to the democratic party will be rewarded in this way. Members of the legislature will now have a fair chance to express their opinions, and will in all probability be compelled to come out and show distinctly whether their sympathies are with the people or in favor of shielding this prince of ballot-box stuffers, shoulder-strikers, and assassins."

And again, the 23d of May, speaking of the trial:

"The first act in the farce of trying a notorious scoundrel for being accessory to a foul murder has come off at Napa. Ned McGowan, the cunning but cowardly and unprincipled man who has played so conspicuous a part in the villainy that has heretofore been practised in this city, the tool and accomplice of equally as guilty parties now in our midst, has at last been caged in Napa, and is undergoing a farce of a trial, which is only intended to create sympathy for a hardened wretch, totally unfit to be loosed on society. Nearly

three months since, this fugitive from justice made his appearance on the public streets of Sacramento. Under the eye of the very governor who claims to have offered a reward for his apprehension, he was suffered, although under an indictment of a grand jury, to roam at large, hold levees, and be lionized by men of the same stripe. He was not only persuaded to ask for special legislation in his behalf, but members seemed eager to obtain his favor by granting his request; and he was permitted to occupy a seat within the bar of the assembly, during the session, by the side of a boon companion. After being feasted and lionized by his gaping advisers and would-be imitators, a judge was found who had sufficient regard for the forms of law and public decency to order McGowan to close confinement. That he is guilty of every charge, and even more, that has been laid to him, no one pretends to doubt. His criminal conduct in Pennsylvania, and his subsequent villainy in this state, have rendered him infamous. That he could be convicted, if the proper course was pursued, of crimes sufficient to consign him to the gallows, is true; but that he could be punished at the present time, while his friends are in possession of power that ought to be in honest hands, is doubted by all. A want of confidence in the authorities has produced an apathy among the people, as regards any attempt to prosecute this trial to a successful issue. They believe that the only thing to be done in this case is to mete out justice themselves, or await the advent of honest officials of their own choosing. That McGowan's occupation as ballot-box stuffer and worker in crime in this city is at an end, we are confident."

Napa had acquired quite a reputation in those days for liberating murderers. It was quite the thing if you had killed a man to go to Napa to be cleared. Lawyers, barkeepers, and hotel proprietors all treated such felons as favored them with their patronage with every kindness, sending them their choicest viands free of charge. Ned's friends were of a class that drank often. The saloon-keepers could rely on them; they were always thirsty. Jailer, judge, and jury were all free and easy, kind and lenient; if the prisoner had money and spent it, he was a good fellow and need have no fear. In this instance with a gravity which challenges our credulity, the trial turned on the question whether King was killed by Casey's pistol-ball or by the physicians who did not cure him; and as there was no other plausible ground on which to cleanse Ned's skirts, they easily found two physicians, Dr Cole and Dr Toland, who testified that in their opinion King died from the effects of treatment by other physicians to whose course of practice they

took exceptions. In other words, it was not the shooting which caused King's death, but the sickness which followed the shooting and which the physicians failed to cure!

No sooner was Ned declared an innocent by Judge McKinstry than he set about editing and publishing a paper. It is not a little singular how many innocents there are in America to-day editing newspapers. Ned's paper was called the *Phœnix* at first, under which name it ran twenty-five Sundays, from the 30th of August, when in wrathful decay it ulcerated and appeared under the name of the *Ubiquitous*, the morning of Sunday, the 21st of February 1858.

The first number of the *Phœnix* opens with *McGowan's Lives of the Stranglers*. But for his art of dodging, the biographer himself might ere this have tasted the new social reform; as it was he must content himself concocting smells which if rank enough to reach the object aimed at, filled the measure of his ambition. Having analyzed Ned's *Narrative*, I shall now examine his journal.

The *King of the Polecats* is the polite heading of an article in the first number, on the brother of James King of William, the substance of which is in fair keeping with the caption. On the second page a complete "list of the stranglers" is given. This is followed by a "salutatory" which is "fully aware of the responsibility" falling on an editor; which promises that, truth being abundant, lies will not be resorted to for the annihilation of enemies—a position which, though possibly assumed, never before was maintained by a public journal; which acknowledges the duello a part of its political creed; and which declares that none but vigilants "need fear exposure in our columns." According to the bold licentiousness forthcoming, the editor says: "We shall strive to present a paper which will be read and sought after by all, but should our columns contain things which should shock the fastidious, and prevent it from being the companion of the

drawing-room and family circle, we shall have to ask grace of our readers, for we deal with filthy subjects, and as a faithful historian we are compelled to give every item both of atrocious vulgarity and glaring crime."

The second number comments on the ancient puritan as he appears in the modern strangler, and views him in his "admixture of piety and hypocrisy," his liberty-loving desire of crushing others, and his quaker-hanging and witch-drowning proclivities. It then takes up one after another of several of the executive committee and comments upon their chararter in no flattering terms.

The fourth number appeared in mourning for the death of Judge Murray, as left-handed an honor, surely, as ever was paid a chief-justice of a supreme court. Every printed word concerning McGowan or his narrative was reproduced with lively if not very chaste comments. Scores of San Franciscans were thus bespattered with the filthiest blackguardism. To obscenity it added blackmailing, and until the 20th of June 1858, the last number I have seen, drove an iniquitous trade.

The dead *Phœnix*, rising on the 21st of February 1858 into new life as the *Ubiquitous*, again salutes its patrons with "no ordinary feelings of pride and self-gratulation." "In defiance of all right and justice," it adds, "in violation of every principle of truth, our enemies have seen fit, in their demoniac rage at our showing them to the world in all their hideous deformity, to endeavor to hinder and delay us in its further execution. In this, however, they have not succeeded." The opening number of the *Ubiquitous* contains a wood-cut of '33, Secretary,' which with the additions of two leading saloon-keepers, Hopkins, whom he calls the hangman, and Jules David, graces the last page of the last number, under the title of 'McGowan's Portrait Gallery of the Stranglers for Fraser River.'

All the issue of the 14th of February of this delectable journal sent to San Francisco was seized by the chief of police as unfit for circulation; whereupon next day in an 'extra' a great cry was raised by the editor. "Another outrage in the city of blood! Newsboy arrested and paper seized! Is there anything obscene in this paper? The freedom of the press tolerated by the stranglers in their strangling press only. The stranglers writhing under our lash! Who says we are not getting even, more than even?"

A whole volume of reflection on the freedom of the press is offered in this ludicrously absurd cry. Nor should the honorable judge have so openly acknowledged that he was getting more than even, for that is not justice.

In 1862 we hear of Judge McGowan in the goldfields of British Columbia. Ned always possessed quite a *penchant* for gold-getting, in whatsoever capacity. "As an instance of the workings of universal suffrage," writes Mayne, "it may be mentioned that this man at one time filled the office of a judge in California; and quite recently when, after shooting at a man at Hill Bar, whom he luckily missed, he escaped across the frontier into American territory, he has been elected to the house of representatives of one of the border states that lie east of the Rocky Mountains."

And again, speaking of some disturbance created by McGowan at Yale, he says: "Colonel Moody, representing the majesty of the law, was still at Yale. Mr McGowan outraged it unmistakably by committing an unprovoked assault. This, coupled with sundry other suspicious circumstances, caused Colonel Moody to think that McGowan's friends and admirers would, if provoked, break into serious insubordination; and he at once instructed me to drop down the river to Hope and Langley and order up the engineers, marines, and blue-jackets left at those places. Mr McGowan, after enjoying the sensation

he had caused, paid the commissioner a formal visit, and after making a very gentlemanly apology for the hasty blow which had disturbed the peace of British Columbia, committed himself frankly into the hands of justice! What could be done with such a frank, entertaining rascal? He was fined for the assault, exonerated from all previous misdemeanors, and next day, upon Hill Bar being visited by Mr Begbie, the chief-justice, and myself, he conducted us over the diggings, washed some dirt to show us the process, and invited us to a collation in his hut, when we drank champagne with some twelve or fifteen of his California friends. And whatever opinion the Vigilance Committee of San Francisco might entertain of the gentlemen, I, speaking as I found them, can only say that, all things considered, I have rarely lunched with a better-spoken, pleasanter party. The word miner, to many unacquainted with the gold-fields, conveys an impression similar, perhaps, to that of navvy. But among them may often be found men who by birth and education are well qualified to hold their own in the most civilized community of Europe."

I give herewith some letters of Mr McGowan's which fell into the hands of the Vigilance Committee, which fix his social status more definitely than any other evidence I have seen. And first, one addressed "Judge McGowan, care D. C. Broderick, Union Hotel, San Francisco. By Adams and Company's Express from Auburn."

"AUBURN, September 8, 1853.

"DEAR JUDGE:

"I seize the moment to communicate the news from Placer County. Our vote is not so large as last year by 1000; Bigler's majority will be about 225. Precincts all heard from except two or three small ones in the mountains. County ticket all elected. Drunkard's Bar, 100 votes, polled Bigler 98; the rest of the ticket 100—in sporting language *a flush*. Can you beat it, hey? I'll be at home on the 10th. Yours,

"DICKSON."

"Dr Dickson who wrote this letter was killed in a duel at Sacramento, March 9, 1854, by Philip Thomas. I was the *'friend'* of Dickson. He

was a noble fellow, and was deserving of a better fate. The quarrel was not his own, but that of a friend, whom Thomas refused to recognize as a gentleman. Dickson took his friend's place and fell mortally wounded. Peace to his ashes.

"EDW. MCGOWAN.

"*San Francisco, March 26, 1854.*"

The honorable John B. Weller to the honorable Edward McGowan:

"WASHINGTON CITY, January 24, 1853.

"MY DEAR SIR:

"In the multiplicity of other engagements I have only time to write you a short note in reply to your letter of the 15th ult. You will be kind enough to pay over to my brother C. L. Weller the amount due me from the Marine hospital. In regard to the federal offices in California, I can only say that I am much mortified at the great number of applicants for all the offices in that state. I am literally overrun with letters, etc. After all names have been presented, the delegation from California will attempt to unite in their recommendations. If in the general scramble anything can be done for you it will give me great pleasure. Respectfully, your friend,

"JOHN B. WELLER."

"*Ed. McGowan, Esq.*"

"I, John," desire the election of Skinner:

"BENICIA, October 9, 1853.

"DEAR MCGOWAN:

"I desire you to aid the election of J. S. Skinner as city physician all in your power. Say to Broderick that I am anxious for his election for reasons which I will explain to him. I will be down on Monday evening without fail. Truly yours, JOHN BIGLER."

The roughs do not want their leaders to fight. Vi Turner and J. F. Quin to Judge McGowan in relation to a proposed duel between Bagley and Casey:

"*N. B.—Private and confidential.*

"DEAR NED:

"We have been called on to act in the capacity of seconds in a duel that is to come off in the morning between Mr Bagley and Jas. Casey. To you, as the friend of Mr B., we now write, and if our former intimacy can guarantee the demand, we insist upon you lending your hand to the settlement of the same. From what we understand of it, it is a difficulty that can be settled without the least trouble. Take the advice of friends, though younger in years than yourself, that the settlement of this matter would benefit all parties interested. There is no necessity for any haste in this affair. Come in town with your friend and confer with us, and I am certain it can be arranged. Let me assure you that Vi and myself are equally friendly with one as the other. For your sake and ours come immediately on receipt of this. You shall not compromise yourself. Your friends,

"VI TURNER and JAS. F. QUIN.

"*To Judge McGowan.*"

How Ned kept his politico-pugilistic accounts:

Peter Whiteman,	$175	
Errickson,	20	
Small & Co.,	160	Draft on Philadelphia dishonored.
Dick Howell,	130	" " " "
John Abrahams,	25	
Young Elder,	30	Philadelphians and Pennsylvanians
Irish Thornton,	25	that I have loaned money to, not one
Jim Galaway,	50	of which ever made the first offer, or
W. Williams,	25	ever will, to pay.
O. Bailey,	113	

Sowing the good seed at election:

"San Francisco, September 5, 1854.
"Rec'd of Edward McGowan three hundred dollars for the county.
"$300. W. J. Sweasey."

"San Francisco, September 4, 1854.
"Rec'd from Edw. McGowan $150 for election purposes.
"$150. 2d Ward. Thos. M. Cahill."

"San Francisco, September 4, 1854.
"Rec'd from E. McGowan $150 for election purposes for 8th Ward.
"$150. 8th Ward. D. B. Castro."

"San Francisco, September 5, 1854.
"Received of E. McGowan the sum of $150 for the Seventh Ward.
"$150. 7th Ward. Peter Kenny."

"San Francisco, September 6, 1854.
"Rec'd of Edward McGowan $150 for the Third Ward.
"$150. David Scannell."

"San Francisco, September 6, 1854.
"Rec'd of Edward McGowan $150 for the Sixth Ward.
"$150. Peter Veeder."

"San Francisco, September 6, 1856.
"Rec'd of Edward McGowan two hundred dollars for Fifth Ward.
"$200. Jacob Ritchie."

Ned neglects his little French girl:

"My Dear Friend:

"I suppose that you are very surprise, not see me since any days, but not you knows that Madame Dubucourt she as been very bad for me, an she says if I am going to see you the door should be shut me. Madame Dubucourt is

very jealous and sorry why anybody like me. I am been very sick by this conduct, an very sorry that you not come see me. You know my dear friend the affection that I have for you, and I suppose that you have the same for me. Any time that you call, I shall have very happy to see you; if you not come now I think you very bad for you, but I hope my letter find you the same for me as before. Your friend,

"*25 August.* LENNY."

Among the actresses Ned was a darling gay Lothario:

"PARIS, 3d March, 1855.

"*Edward McGowan, Esq.:*—

"MY DEAR FRIEND: Alone in my little parlor far away in this gay place I think of those who love me—and you are not forgotten.

"My eyes are still very weak, indeed, and pain me very much, or I would write you a long letter—all about my thoughts of you and other dear friends I left behind me in California, that blessed land of gold and good hearts! But it will not require many words to assure you of all the grateful remembrances I entertain of you; I often close my eyes and think I see you, every night, before the rise of the curtain, walking down the aisle of the parquet of the Metropolitan Theatre, a bill in your hand and looking so cheerfully at everybody near you as though you would say, 'Well! have you come to see my daughter play to-night?' Oh, those dear old happy times! Will they ever come again? Have you had any new pet yet since I left? I hope the artists who have followed me have not eclipsed me from your heart. It would give me pain to think so, for neither fate nor circumstance could change my thoughts of you.

"I have been in Europe now nearly five months; in company with my brother and sister I am now spending some time in Paris. I have seen Rachel—the EUROPEAN Rachel. I must not praise her, since everybody here says she bears such strong resemblance to me, and I might be thought vain did I speak my opinion of her. I am forced to confess that the resemblance between our styles of acting was so striking that I felt wonder-struck during the first act. But I can never hope to attain the excellence to which she has arrived, which is truly wonderful. Her acting is so powerful, it at first alarms you, then positively frightens, then subdues, then delights you. She goes to America, where I hope you will see her. Her style, however, touches the head, but never once the heart. The world here is all astir preparing for the World's Fair. But neither England nor France have any charm for me. I would rather pass a single year in California than bask among their beams forever.

"I am studying very hard in the sweet hope to be, some day, worthy of the good name which San Francisco has already crowned me with; it will give me great pleasure to return to you all once more and show you the good use I have made of my time; and then, judge, we will have a good long chat about old times. Will we not? Yes, indeed! Until then may God be with you; and believe me ever your grateful friend,

"MATILDA HERON."

Here is a specimen of Steve Whipple's dunning letters for money lost at gambling in his establishment:

"WEDNESDAY, August 16, 1854.

"*E. McGowan, Esq.*:—

"DEAR SIR: At your request, as conveyed to us by Doct. Parker, we have not called upon you for the balance due the house on your check, supposing of course that you would on Monday have met the same. That day, Monday, and yesterday having passed without our being able to see you, we are compelled to call on you for a settlement of the same to-day.

"Very respectfully, your obedient servants,

"WHIPPLE AND BURROUGHS."

CHAPTER XV.

ARREST AND EXILE.

Objection! Let him object if he dare.
Sheridan.

Early in the present century an English wine-merchant, John Dobell, wrote a book entitled *Man Unfit to Govern Man.* To have obtained a hearing in San Francisco shortly after the middle of the century, Mr Dobell would have had to make his title-page read *Man his own Master.* After the execution of Casey and Cora every honest man felt more honest, carried his head higher, and breathed more freely. He felt that he was again indeed his own master. The conspiracy of law and order was broken, but it was not yet eradicated. There was other work for the Committee to do. Society must be further sifted.

Idlers and criminals are the greatest curse entailed on society, greater than war, pestilence, earthquake, and famine; and to permit bad men and their crimes to multiply and go down interbreeding to posterity, such imposition falling always alone on the industrious and virtuous, is the greatest evil one generation can inflict upon another.

It was the bounden duty of San Francisco to arrest and eradicate the leprosy then overspreading her young institutions. Her citizens, represented by the tribunal in session on Sacramento street, had no right to permit the disease to spread and so transmit to their children, their fair inheritance, the pestilential carcass of its former self. And they did not; for on

their opinion they acted. A point was reached where a *laissez-faire* policy in matters pertaining to public weal could no longer be endured. The *laissez-faire* of the state government at this time was a *laissez-faire* which let alone the thief when he robbed, and his victim when he cried for justice; it was not the let-alone principle which gives to each citizen all the good he can get, leaving him to suffer such evils only as he brings upon himself.

And so thinking, they acted upon the only true principle, that the most merciful, not to say economical, way is to punish crime quickly, surely, and severely. Advocates of the abolition of capital punishment were requested to shift their sympathies from the murderer to the murdered. Letting them rest there for but a single moment, if they are the humanitarians they profess to be, they will say that the venomous reptiles of society should be exterminated, as settlers exterminate rattlesnakes and grizzly bears. Humane justice will punish severely, for severe justice is the most humane. And not only this, but it will seek to save the otherwise lost; it will cast down, but it will likewise lift up.

To the new order of things in this heterogeneous civilization the old worn-out machines of eastern traditions were ill adapted. Stronger and better fitted wheels of swifter velocity were requisite to keep pace with the new jurisprudence. Men tire of watching each other, of hiring their fellows to perambulate streets with bludgeons ready drawn for the hammering of refractory humanity, of watching political parties in belligerent attitudes snarling and glaring at each other lest one shall steal more than its share. It was not the people immediately who were responsible for it, but government, law, and law officials; yet after all it was the people. The moralities of mankind, like the moralities of nature, are pure and peaceable, and the masses, as a rule, are right. As a rule their law is nature's law, God's law. No more can the flower

thrive while nursing in its bosom the envenomed worm than can society prosper under customs oppugnant to nature's laws. For crime we are indebted, first to criminals, the abnormal element of society, the ignoant, vicious, wilfully wicked; next, to statesmen, governors, judges, lawyers, those who subsist on the labors of the people, pretending to punish vice, but in their selfish counsels as often fostering vice as punishing it; and last of all, the people, for permitting such things.

Out of an ignorant, irrational, or brutal society there does not spring a wise and humane government. Wicked men do not select their leader for his virtuous qualities. A good man will not accept office obtained through that hypocrisy and lying, that rousing of deceitful hopes and fostering of senseless prejudices necessary to his election. Nor is it in man, least of all in kings, but in nature only, that we may look for right or might divine. To nature we must go for law, for learning, for intellectual as well as for physical food.

So these popular-tribunal men concluded to work away for a brief space lustily, and give the city a moral scrubbing. Thus far the people were satisfied with their leaders, and were content to follow and obey these so-called autocratic traitors. Remembering a saying the Chinese have, that "the wise man does not speak of all he does, but he does nothing that cannot be spoken of," they were satisfied to know only results. Says the *Golden Era* of the 25th of May: "Were this executive committee not composed of the most respectable and honorable of our citizens, we might question the policy of veiling their actions from the scrutiny of the people whose province it is to approve or condemn them." But as they were safe men, the people did not fear to trust them, the journal goes on to say, taking a quarter of a column to say it in.

To the destruction of the aeries of these moral vultures the Committee then applied itself. A committee waited on the city police with an offer of three

hundred dollars for the arrest of McGowan, and two hundred dollars for the arrest of Wightman. A disclaimer was ordered published in the journals of the day "of the intention of this body to avail itself of the right of search, without the permission of occupants of houses or legal warrants," and no arrests were permitted to be made by members of the Committee without a warrant from the Executive.

Prominent among the birds of prey were Billy Mulligan, Dan Alrich, Bill Lewis, Yankee Sullivan, and others famous for doughty deeds perpetrated in defiance of law, and while yet law's most kindly ministers. Every one knew them to be guilty of criminal acts, and yet the law seemed powerless to reach them. Terrorism was their play. Prominent in all political matters, they held the polls at election, and often attacked, maimed, bruised, and abused all who opposed them. They levied black-mail almost at will, and when in drunken bravado they appeared on the street, quiet citizens were obliged to take themselves out of their way. And, indeed, if the law so desired, there was little use in arresting them.

While the Committee could not conscientiously disband leaving these social coyotes still prowling the streets, on the other hand they were resolved to inflict no punishment not authorized by the courts; particularly none should be capitally punished who would not under the law be subject to such treatment. And yet this chronic criminality must be checked. After much thoughtful consideration it was determined to adopt the plan of banishment, after trial and conviction, of notoriously bad characters whom the hangman could not legally reach.

While the men of law affected adoration for form, the vigilance party believed in the sacredness of human life. Thieves and murderers preying upon a people are bad enough, but their doings are far less injurious than the influence of those who live by poisoning the fountains of social morality, and quoting

tradition to sanctify their wickedness. In order to prevent the disintegration of society, the Vigilance Committee found it necessary to assume absolute power; and in the administration of justice they resolved to restrain the tendency toward excess which characterizes the possession of unlimited authority by constitutionally limiting its exercise. They confined the death penalty to the crime of murder, and adhered to this restriction during all their rule, although the interest of justice at times seemed to warrant its suspension. Banishment was the only punishment awarded the worst criminal against whom the crime of murder could not be proved. Banishment has a severe sound; but under the *régime* of the Committee it amounted to little more than allowing the criminal to select the city to which he would make a pleasant voyage, the association paying the expenses of the journey if he had not the money.

In most cases the expelled decided to go to New York, and were furnished passage by the regular mail steamers. The good accomplished was chiefly in making lawless characters understand that though they might successfully defy the law, there was in the community a reserved power which was absolutely irresistible, whose grasp might on the next occasion prove fatal.

One night about one o'clock the police were aroused by one who thought he had found McGowan's track in the vicinity of Washington street. During this time Pete Wightman was stowed under Folsom's stable; and there his ravens fed him until he effected his escape.

A committee of five on foreign relations was appointed to furnish transportation for those who might be requested to leave the state. Of all notorious characters a list was made, called the Black List, and orders were issued the 25th for the arrest of William Mulligan, Dan Aldrich, Bill Lewis, J. W. Bagley, Martin Gallagher, and Yankee Sullivan, and next day

the last three were brought before the Committee. The evening of the 27th they were tried, each on the individual merits of his case, and all having their counsel, with the privilege of summoning witnesses, as in trials for murder. And thereupon the following resolution was passed:

"WHEREAS, The evidence we have heard establishes conclusively that Billy Mulligan, Yankee Sullivan, and Martin Gallagher have for years been disturbers of the peace of our city, destroyers of the purity of our elections, active members and leaders of the organized gang who have invaded the sanctity of our ballot-boxes, and perfect pests to society; therefore

"*Resolved*, That William Mulligan, Yankee Sullivan, and Martin Gallagher be transported out of the territory of the United States at the earliest practicable moment, and that they be warned never to return to California, under penalty of death."

Orders were then issued for the arrest of Billy Carr, Woolly Kearny, Jim Burke, and J. P. Hickey; and on the 30th the two first named were in like manner sentenced to exile. Dan Aldrich was discovered soon after with his *inamorata,* secreted in Sacramento. A new order was issued for his arrest, and also for that of Edward Bulger.

She who called herself Mrs Sullivan sighed to see her husband in words like these:

"MAY 29, 1856.

"DEAR JAMES:

"I take my pen in hand to write those fue lines to you for I do not no wot to do for I have not got one cent in the world and theay will not let me come in to see you I have been three times to see if they would not let me in to see you; Dear James how are I to folow you When thay Seand you A Way My heart is almost broke Aboute you I wishe you to write me a fue lines out so that I can no wot to do I will wate wile youe rite me a fue lines

"So no More at preasent from your Affectionate Wife untill Death,

"EMILY MARY SULLEVAN."

Suddenly in the midst of these engagements the Committee was shocked by the announcement of an officer of police that Yankee Sullivan had committed suicide in his cell. An extra session of the Executive was immediately called and the matter investigated.

It appears that about six o'clock Saturday morning,

the 31st of May, Sullivan called the guard and requested a drink of water. He then related a horrible dream from which he had just awakened. He thought he had been condemned to die; that the last rites of religion performed, he had been seized and pinioned by the guards, taken from his cell, led to the fatal window, where the rope was adjusted round his neck; then, placed on the platform before the deriding crowd, the trap was sprung, and in the fancied agony of the last awful struggle he awoke. He was greatly excited. So strong a grasp upon his fevered brain had the terrible fancy taken that he could not drive it hence. The guard sought to pacify him, told him there was no danger of his being hanged, that at the worst he would only be expelled from the country, and that in another land he could reform and lead a life of virtuous industry. The unhappy man took the water offered him apparently relieved. But when two hours after the guard entered the cell with the prisoner's breakfast he found him lying on his back upon the bed in a pool of blood, with a frightful gash on the inside of the left elbow, dead. He was dressed in pantaloons and shirt, and near him, red with gore, lay the knife which he used to cut his food. The body was given to the coroner.

The cause of the melancholy event, it was thought, was the denial of stimulants to which the prisoner was almost momentarily accustomed. It was shown that drunkenness was his normal state, from fifty to eighty drinks a day being his customary indulgence; and when after incarceration tea and coffee were substituted, his nervous system sank, circulation became sluggish, and his mind gloomy. This lesson to the Committee proved profitable to the drinking proclivities of the remaining prisoners, who lest they should droop and kill themselves were ordered full rations of spirits. The enemies of the association were not backward in raising accusations of foul play against the Committee, accusing them of murdering

Sullivan in his cell, and like absurdities which are not worthy of refutation.

Sullivan was an English prize-fighter. The appellation 'Yankee' was given him from wearing in one of his great fights a handkerchief with the American flag painted on it. He was a Sydney convict who had escaped to New Zealand. There was no thought on the part of the Committee of punishment more severe than a free passage to wherever he wished to go out of the United States. Some said that he was slain in resisting his guard, but even the *Herald* declares: "We dismiss as entirely unworthy to be entertained, that the man has been assassinated."

Shortly before his death Sullivan made a confession, which brought to light some startling developments in regard to frauds at the Presidio polls. The publication of portions of the confession, with the names of the individuals mentioned left blank, was authorized by the executive committee, and appeared in the journals of June 2d. This confession was to the Committee of 1856 what the confession of Stuart was to the Committee of 1851. It introduced the crime-crushers at once to the mysteries of the ring, and gave them the cue to the campaign. As the confession is lengthy I can give only a summary of it:

The September previous Sullivan lived at the Presidio House, on the road to the fort. Election was held there, and the ballot-box for that precinct was kept in the hotel. Sullivan was one of the judges of election. On the morning of election day the agent of one of the candidates rode up and offered him five hundred dollars to bring in a majority for his friend, the money to be paid after election. The clerk, satisfied with the offer, proceeded to write out on the spot, and before the balloting, the return of the candidate; but Sullivan, knowing the man would not pay, declared himself incorruptible, and tore up the returns.

Another candidate offered three hundred dollars for an election. This one was good pay, for he held the

money in his hand, but he had treated Sullivan badly in 1850, and he should not have the office at any price. Then he goes on to say who bought of him an election, at what time in the day, and how much was paid for it. One office was sold for one hundred dollars, that is to say, so far as that precinct was concerned, and another for five hundred, for which Sullivan never received anything. Thus he went on at length describing corruptionists, exposing fraudulent schemes, and fighting his battle over again until to the light were spread systems and series of villainies unparalleled in republican governments.

And now from his tomb in the cemetery, near the old adobe church of Mission Dolores, the stone that marks his resting-place cries daily and nightly unto God for forgiveness on his enemies. Exceedingly charitable and Christian of the tombstone!

Charles P. Duane, surnamed Dutch Charlie, late chief engineer of the fire department, was arrested on Sunday, the 1st of June, and placed in garrison. Quite a little commotion was occasioned by this arrest. Charlie was always fond of a fracas. He was in the saloon of Fiske and Loring, on Clay street, at the time, when a vigilant officer entered and notified him of his errand. Duane dropped his dignity, flung aside his bravado, felt his courage flying in every direction into space: "O troublous times!" he sighed; "where shall the wicked find rest?" Thereupon, as if in an answer to an inspiration, he lifted up his heels and ran for the police office. Darting through an alley leading to Merchant street, at the end of it he encountered a body of armed men, who seized him. Duane made a desperate effort to shake them off, and shouted loudly to the police, but all in vain. Several of his friends were standing by at the time, but none of them interfered. They were learning discretion. Meanwhile the triangle struck three times; the guard was doubled, the cannon made ready, and mounted

men were stationed in the streets. But all passed off quietly.

Notice in words like the following was served on the banished either in writing or verbally. The example given is from a genuine document:

"EXECUTIVE COMMITTEE CHAMBERS,
SAN FRANCISCO, 6th June, 1856.

"*James Cusick:*—

"SIR: The Committee of Vigilance, after full investigation and deliberation, have declared you guilty of being a notoriously bad character and dangerous person, a disturber of the peace, a violator of the purity and integrity of the ballot-box, and have accordingly adjudged the following sentence:

"That you, James Cusick, leave the state of California on or before the twentieth day of June 1856, never to return, under the severest penalties.

"In witness whereof, the seal of the Committee of Vigilance is hereunto attached. By order of the Committee.

[SEAL] "No. 33, *Secretary.*"

Rodman Backus, the murderer of Oldman, as we have seen, was only too happy to escape the city. After undergoing the forms of a trial, and threading the labyrinth of law, assisted by the usual technicalities, subterfuges, and quibbles, he succeeded in quieting justice by a conviction of manslaughter and a sentence to two and a half years in the state-prison, and three thousand dollars' fine. For an aggravated case of deliberate murder, one would think this would have satisfied him. Not so. In his opinion the law was very unreasonable to punish him at all. So he appealed to the supreme court, and was in a fair way of soon being set at liberty. This was before the killing of King. Witnessing the uprising attending this and subsequent tragedies, Backus was led to believe that murder was becoming unfashionable in San Francisco, and that a murderer was safer between good brick walls than when mingling with such unreasonable and excited men. Consequently he withdrew his appeal; and never did convict more earnestly or honestly beg permission to serve his term than did Backus. Oh! blessed walls of San Quentin, through whose window comes the soft wood-scented air of San

Rafael, or the sterner passioned ocean wind from round Tamalpais, to the hunted murderer thy open gate was as the gate of heaven through which might be seen the eternal courts of rest!

Billy Carr kept a whitehall boat. His occupation was to convey passengers to and from vessels lying in the harbor. This gave him regular exercise, and kept the muscles of his arm in good condition for striking from the shoulder. Carr was king of the wharf-rats. But he aspired to something higher; the aspirations of his genius gave him no rest. Dray drivers had before now been seated in the gubernatorial chair, pimps had been placed on the supreme bench, and blackguards sent to congress; why should not he, an able and honest boatman, become great like the others? So he determined to turn a patriot. He would serve his country, lay down his life for her sacred institutions, if necessary, and be held in grateful remembrance ever after. He began in an humble way as early as 1852 or 1853, as convention delegate, doing fist duty at elections and burning his midnight oil over the intricacies of ballot-box machinery. One day, it was the 28th of May, 1856, about three o'clock in the afternoon, Billy was taking his customary constitutional at a well known political bar-room on Pacific street, when a man entered and approached him.

"May I have a word with you?" he asked.

Now if there was anything Billy despised it was to be disturbed in his potations; and to be disturbed by a stranger, by a respectable-looking stranger, in such times as these—to be requested, by one who apparently knew him, for a word in private—Billy didn't like it. He fidgeted and felt uncomfortable, and the vision of that first-ward ballot-box, of which he was inspector, and which on election night contained a third more tickets than there were voters in the ward, flashed across his brain.

"What do you want?" said Billy in a gruff, dogged tone, with apparently no intention of leaving the bar.

"I want you to go with me," replied the man, giving him an earnest, meaning look full in the eye.

Billy understood it perfectly; but surrounded by his friends, and seeing but one man who so persistently desired his company, he began to argue and to bully, when the messenger interrupted him.

"We will not waste words," he said; "you are wanted at the executive committee rooms. Twenty armed men are at the door. If you will go without disturbance, well; if not——"

Billy went.

Bright were the faces on Montgomery and Front streets when, on the morning of the 6th of June, it was known that the day previous an important shipment of scoundrels had been effected by the Vigilance Committee. Joy beamed on every countenance, and the sun seemed brighter and the air purer since the withdrawal of their hateful presence.

Six of them there were in this gang; and that their law and order friends might not be disturbed, a little ruse was practised by the Committee, which effected their embarkation with the utmost quietness and despatch. It had leaked out in some way that the cells of the Committee rooms were to be emptied that morning, and as the law and order party had been specially active of late, many thought there would be fighting; so that when the hour arrived the front windows of the Committee rooms looked out on a dense mass of excited human beings.

This would not do. It was impossible to tell of what material that crowd was composed. A failure or mistake now might seriously mar their work and destroy their further usefulness. The hour arrived. Six cutthroat looking men, with slouched hats half concealing their villainous features, were brought down the front steps by a strong guard and marched

off to Vallejo-street wharf. As a matter of course, the crowd followed; the streets round the Committee building were completely emptied, and a Sabbath stillness pervaded the neighborhood. Arrived at the foot of Vallejo street, on perceiving no boat in readiness the crowd became critical, and thought the managers of the affair had bungled it. They were becoming impatient of the delay, when the wheezy little old tug *Hercules* hove in sight, coming from the direction of Rincon Point. "She'll fix 'em," said one. But the tug passed on toward the Golden Gate without stopping, only some thought they detected signals between a strange-looking party on board and the prisoners' guard on shore. As the tug rounded Cark Point, the guard with a broad grin unbound their prisoners and let them go. These were not the real villains; they were six good vigilants transformed with no small difficulty into temporary scoundrels for the purpose of drawing the horror-hungry populace from the scent. As soon as the joke was comprehended, something between a cheer and a groan burst from the crowd, which instantly melted into the several streets leading from that locality.

They were right, those who fancied some significance in the signals between the tug-boat and the shore; for no sooner had the streets round the Committee rooms been cleared by the manœuvre than the true prisoners were brought out by a back passage, brought out so secretly that the guard at the front passage knew nothing of it, and quietly put on board the *Hercules*, ready and waiting with steam up. Then they were off in an instant. Three of the immortal six, Billy Carr, Martin Gallagher, and Edward Bulger, were placed on board the bark *Yankee* and sent to the Sandwich Islands. The other three, Charles P. Duane, William Mulligan, and Woolly Kearny, the tug retained until the mail steamer *Golden Age* stopped just inside the heads, and they were shipped

for Panamá. Duane and Mulligan ranked among the aristocracy of crime. They objected to being classed in the same category as that of Kearny, who was a common thief. Very free was Duane with indignant bravado, swearing as they hoisted him up the steamer's side that he would yet return and be avenged. Mulligan was sad at heart, and penitent withal. "I know," he said to one of the guard, "that my punishment is just. I deserve it, and more. I find no fault with the Committee. They are all respectable gentlemen, and are acting rightly, and they ought not to stop with what they have done. There are a hundred others as bad as I, that deserve the same treatment. There is not an officer in the city or county of San Francisco who is legally elected. They are all thieves from the mayor down, and should be driven from office. I shall hope to hear that they have all been made to resign."

Before the sailing of the steamer of the 20th of June the Vigilance Committee rooms were transformed into a picture gallery. An artist was engaged by the Committee to daguerreotype the faces of the prisoners, that their likenesses might be sent with them to the chiefs of police of other countries, that they might be on their guard. Some of the more ill-favored objected, and intentionally changed position while undergoing the infliction, thus spoiling several sittings. Finally, warned by their guard that unless they were tractable a worse fate would befall them, they submitted. Dan Aldrich was arrested on the night of the 22d of June.

About one o'clock on the 8th of July Chris. Lilly, a noted pugilist of San Mateo celebrity, was standing in front of the Cosmopolitan saloon, on Montgomery street, when a member of the vigilant police, having a detachment of men at his call, approached him and requested his presence at the Committee rooms. Chris. said he would go, but he did not want a crowd at his heels. Accordingly he was marched quietly down to

Sacramento street and placed in one of the rooms vacated by one of the recently exiled. Two days after, on giving the Committee satisfactory assurances that he would leave on the steamer following, his liberty was given him that he might attend to some business before quitting the country forever.

The Committee's black list on the 20th of June, one month after the death of James King of William, stood thus:

James P. Casey and Charles Cora, executed; Francis Murray, *alias* Yankee Sullivan, committed suicide; Charles P. Duane, William Mulligan, and Woolly Kearny, shipped on board the *Golden Age;* Billy Carr, Martin Gallagher, and Edward Bulger, sent to the Hawaiian Islands. Jim Burke, *alias* Activity, Pete Wightman, Ned McGowan, and Jim White, ran away; John Crowe, took passage by the *Sonora;* Bill Lewis, Terence Kelly, John Lawler, T. B. Cunningham, Alexander Purple, James Hennessey, Tom Mulloy, Frank Murray, Jack McGuire, William Hamilton, and Philander Brace, shipped on the *Sierra Nevada.*

J. W. Bagley and James Cusick were ordered to leave, but refused to obey. The latter fled to Sacramento and took refuge under gubernatorial wings. The expatriated three by the *Golden Age* were steerage passengers, but Duane was taken from his humble quarters by ex-governor McDougal, who shared with him his state-room and treated him with distinguished consideration.

Abraham Craft was arrested the 21st of July in a gaming-house, next to Maguire's old opera house, by Durkee. Craft was a short-card thief and a bad fellow upon principle. William McLean, whilom a city official, was arrested the same day. Once when judge of election at the Presidio precinct, McLean altered his returns on the way to the city hall, making himself supervisor.

Notice was given J. D. Musgrove, formerly super-

visor, and the third holding a seat in that body from precincts outside the city limits who had been expelled by the Committee, was notified on the 28th of August over the signature 'No. 33, Secretary,' to leave the state on or before the 20th of September, or subject himself to the usual penalty.

Mike Brannagan was a ballot-box stuffer and a bad character generally. He drove a hack, and his stand was on the Plaza. His arrest was made by John L. Durkee, being his first job after leaving the city police and joining the vigilants. In making arrests, as in everything else, there are hard ways and easy ways. Durkee chose the easiest way; and being a man of sense and discretion, he knew the easy way when he saw it, which not all men do know. He thought it one to justice and mankind, when vigilance wanted Mike, whether vigilance should go to Mike or Mike should come to vigilance. Mike's stand was opposite the police prison, the rogues' haven of rest, with its attendant ministering spirits. The American Hotel was just round the corner from Fort Vigilance. To request Mr Todd, a respectable young married man, to engage Mike to call at the hotel to drive his wife to the steamboat, was a quiet way of bringing Mike away from the moist airs of the police into the lighter, drier, and more wholesome atmosphere of vigilance. Mike departed by the *Sonora* the 15th of August; Craft and McLean by the *Golden Age* the 21st of July; Chris. Lilly by the *Sierra Nevada* the 15th of August.

They of the flush times would have their practical jokes, no matter how serious the business in which they were engaged. One night there was an arrest to be made. The order was written out and signed by the terrible symbol 'No. 33, Secretary,' when Bossange begged command of the party. It so happened that Bluxome was indebted to Bossange for some prank played on him, and the former thought it time to

liquidate. Bossange, being a Frenchman, was not so familiar with Californian English as with that found in popular phrase-books; though bar-room idioms were usually not the last for foreigners to learn.

"All right," said Bluxome, as he filled the blank in the order with the name of his friend Bossange, "all right; the man's name is Toddy. He is usually seen loafing at the bar-room of the Union Hotel."

Meanwhile Bluxome notified the barkeeper, who, it happened, was a personal friend of Bossange. Putting on an air of nonchalance deemed necessary in trapping keen-scented game, Bossange strolled up to the bar, his men all alive in their watch at the door.

"I want one Toddy," whispered Bossange.

"Certainly," replied the barkeeper, "which will you have, brandy toddy or whiskey toddy?"

One night an expedition under Captain Burns was sent to arrest Cunningham, coffin and ballot-box stuffer, who once attempted to join the Committee. Among the vigilants was a Dutchman weighing two hundred and fifty pounds. The arrest was properly made, though not without resistance, and the cormorant carried off; but as the captors were descending the stairs the female of the premises fired at them a shot which took effect in the Dutchman's back. Taken to the Committee rooms, the sufferer was laid out on a table face downward. As the surgeon stood over him brandishing his carving-knife, the victim, nothing intimidated, turned up his fat, flabby face and remarked to the doctor, "I wouldn't care a damn about it if I hadn't been shot in the back, and that by a woman!"

CHAPTER XVI.

DECLARATION OF WAR.

Cethegus, Catiline! whose ancestors
Were nobler born, were higher ranked, than yours?
Yet ye conspired, with more than Gallic hate,
To wrap in midnight flames this helpless state,
On men and gods your barbarous rage to pour,
And deluge Rome with her own children's gore.
Juvenal.

When so good a man as General Sherman, a man so full of noble qualities, and afterwards occupying so warm a place in the hearts of his countrymen—when such a one scatters abroad loose statements involving the good name of other good men, we should perhaps show more charity to exasperated southern chivalry.

At the request of Justice Field, of the United States supreme court, General Sherman wrote from St Louis, the 25th of February 1868, a letter detailing his Californian experience of 1856, which was published in the *Overland Monthly* of February 1874, and reproduced in substance in his *Memoirs*. This document abounds in incongruities and misstatements, a few of which I will point out: Among other things, he asserts that without a standing army the American people would become a mob, which language many of his best friends would dissent from. Surely if General Sherman had considered for a moment he never would have placed a free people in the anomalous position of holding over themselves a guard of hired soldiers to keep themselves from insurrection! Least of all do the American people require so to keep themselves. Was it a mob General Sherman led

through Georgia? Do the transactions of the Vigilance Committee of 1856, as recorded in these pages, read like the doings of a mob?

He states further that James King of William "turned against his old associates" when he exposed the rascality of I. C. Woods, and Adams and Company, "and against Woods especially, who by public clamor became alarmed for his personal safety and escaped the country." Now no one knew better than Sherman that King was a single-minded man and Woods a trickster. If circumstances should throw the general unwittingly among thieves, would he call it turning against his old associates when he exposed them? Besides, who ever heard of an honest man in America becoming alarmed for his personal safety and escaping a country to get away from a newspaper? Again he affirms, "a war grew up between these two evening papers and their editors, King and Casey." This is not true. There never was war between the papers. King exposed Casey for stuffing the ballot-box which made him supervisor. He never cared a fig for Casey or his paper. Three lines after, Sherman says: "King sent to New York and prepared the record of a case in which Casey had been convicted of robbing the room of his mistress." King did nothing of the kind. A member of Casey's own party, with whom he had quarrelled and exchanged pistol-shots at a primary election, procured the evidence against Casey, as we have seen. Sherman goes on to say that "King treated him rudely," as if that excused Casey in killing him. If it did not, it being "no unusual thing at that time" for one man to shoot another surely would exculpate him. "Casey then told him he would shoot him on sight." Casey told him nothing of the kind; there were two listeners to the conversation in the adjoining room, and we know what King said. King "started for his dwelling on Stockton street," continues this veracious writer. Mr King lived on the corner of Mason and Pacific streets.

Next are three misstatements in a single short sentence: "Several people who happened to be near ran up, caught, and carried him"—he was not carried—"into the office of Wells, Fargo, and Co."—it was the Pacific Express Company—"and laid him on the counter." Mr King was never put upon the counter at all. The newspaper press, he says, all but the *Herald*, "became in the highest degree inflammatory, and drowned all reason and argument." That is to say, all reason and argument of the Sherman order. All the people, all the newspapers were fools; only Sherman was wise. "King died the next day, Friday, I think, and his funeral was fixed for the Sunday following." Mr King died on Tuesday and was buried on Thursday. He makes the execution of Casey and Cora take place on the day of their seizure, within the hour, almost, that they were taken from the jail, when there was an interval of four days. "Everybody supposed that when this funeral was over, the matter was at an end; but to our surprise the Vigilance Committee maintained its organization." "Everybody" was Sherman, Johnson, and Garrison. "While the better elements of society were at work intent on their own personal affairs," the general goes on to say, "the idle and vagabond sought the power in existence for an easy support, and through the Vigilance Committee they became what our ward politicians are at all times. Even Sydney convicts became judges and constables, and sent around San Francisco their absurd writs, with a big all-seeing eye impressed thereon as their great seal." That is a falsehood; and I cannot see, even though uttered by a general of the United States army, how it can be otherwise than wilful and malicious. "This went on from month to month, and none of us knew who was our king, whether the pack of fellows who sat at midnight on Front street," etc. It was not Front street, but Sacramento street; and as if this were not bungling the locality enough, in his *Memoirs* he calls it Clay street. Now, is General

Sherman true, manly, honest? does he mean what he says when he stigmatizes the Committee thus? The fact was never questioned that they were San Francisco's best men. Sherman as a banker knew them to be as a class infinitely better men than those of his party. Is it honorable, is it gentlemanly, is it decent, for him to employ such terms in speaking of such men? "In a day or two after this"—it was the same day—"Judge Terry of the supreme court made the writ commanding the sheriff to bring before him the body of Maloney"—Billy Mulligan was the man. "This writ was put into the hands of a deputy, who tried to enter the rooms of the Vigilance Committee on Front street"—Sacramento street—"but was kicked out." He was courteously invited to enter, and did enter, and was not kicked out. Besides, how should a man be kicked out of a place which he tried to enter and could not!

Thus the letter goes on to the end. The misstatements may some of them appear trivial, but in this connection they are not so. Sherman has made statements impeaching the integrity of California's purest and best citizens, statements which are either true or false, and which were made either wittingly or unwittingly. To say the least the assertions of one so lax in language should be taken with allowance. The general is popular in California, as in other states, and his friends are disposed to pass his random remarks charitably, as the harmless offhand way of the soldier. But although I entertain personally none but the most kindly sentiments toward him, and have great respect for his military success, I can speak of him in this connection only as he is, and that according to my best judgment. So judging, General Sherman in this letter is either prejudiced, ignorant, or false, in either of which event writing is no credit to him.

In a subsequent letter, illustrious also for its lack of sound judgment, Sherman says, "You and I be-

lieve that with good juries, Casey, Cora, Hetherington, and Brace, could all have been convicted and executed by due course of law." Most assuredly they could. A child could fathom that assertion. Good juries could convict and execute four murderers. But where were good juries to come from when the sheriff, friend and associate of the prisoners, had the summoning of them? Certainly they could have been convicted; but ten thousand men each as capable of determining the chances as Field or Sherman did not believe they would have been convicted. "You and I believe," the letter continues, "that San Francisco had no right to throw off on other communities her criminal class, and that the Vigilance Committee did not touch the real parties who corrupted the legislature and the local government. Again, if the good men of any city have the right to organize and assume the functions of government, the bad men have the same right if in the majority."

We notice now the "pack of fellows" are "good men," and must infer in U. S. general-in-chief phraseology, packs of fellows must mean good men. I have before stated that these criminals were not bred on California soil, were no outgrowth of California society, were never invited hither, came for no good purpose. They were old offenders in every instance, generated in the pestilential purlieus of older cities, and San Francisco had the right to drive them out. As regards the next assertion I confess my inability to fathom the general's meaning. If the ballot-box stuffers, primary election fighters, if Ned McGowan, Casey, Sullivan, and that class were not corrupters of government, I am at a loss to know who were. One thing I know; that before the organization of vigilance the local and the state government were notoriously corrupt, and that for ten years after the disbandment municipal affairs were singularly pure. To the truth of this assertion I can produce the records with hundreds of witnesses behind them.

Lastly, the general seems to forget that in our government the majority rules, the majority have the right to rule, and if the majority be bad, as is too often the case, the bad have the right to rule.

Not being familiar with the incidents of General Sherman's life I am unable to test the veracity of his *Memoirs* in any other part than that which relates to California; but if in other parts it is as crammed with misstatements as in that which relates to the Pacific States it will be handed down to posterity as a marvel of error and prejudice. One may take by way of illustration a sentence almost at random, as the following: "In July"—it was in June—"1856, they arrested Chief Justice Terry"—he was not chief justice, but associate justice of the supreme court—"and tried him for stabbing one of their constables, but he managed to escape at night"—neither Terry nor any other prisoner ever escaped from this Committee. He was discharged and escorted by the Committee beyond the reach of danger from the populace who were even then eager for his punishment—"and took refuge on the *John Adams*. In August"—it was in July—"they hanged Hetherington and Brace in broad daylight, without any jury trial." They had a full and fair trial, with the entire Committee as a jury. Sherman may be a good soldier, but he made a great mistake when he undertook to write a book. It makes little difference to the reader whether current and authenticated facts are misstated through ignorance or intention. Of a truth I never saw so great a man with so little common-sense!

Let us briefly review the political situation, and the relations of federal, state, and municipal authorities. The know-nothing party had at this time the control of the state, but the administration was composed of weak men. Shortly before the organizing of vigilance in San Francisco, Sherman, then resident partner in the banking-house of Lucas Turner and Company,

had been made major-general of the second division of militia embracing San Francisco, by the governor of the state, J. Neely Johnson, though he did not formally accept until after the organization. General John E. Wool then commanded the military department of California with his head-quarters at Benicia. Captain D. G. Farragut was in command at the Mare Island navy-yard. The U. S. ship *John Adams*, E. B. Boutwell captain, lay at Sauzalito. Mr Van Ness was mayor of San Francisco.

There was at this time in the state militia a company of artillery with four guns, Captain Johns, and three infantry companies, most of whose men soon passed over to vigilance. Sherman was one of the *posse comitatus* summoned by the sheriff to keep the prisoners, and spent one night in jail. E. D. Baker was another; Thornton, he with but one arm, Peachy, and Billings, lawyers, were others. On the night of his arrival Johnson telegraphed Sherman to meet him at the boat, which he did in company with C. K. Garrison. In his letter Sherman says they proceeded immediately to the jail; in his *Memoirs*, to the International Hotel. It makes no difference where they went; I only speak of it as showing the extreme looseness of the general's statements. Sherman then recites the interview at Turn Verein Hall and the result in which by implication he charges Coleman, Truett, Smiley, Arrington, and the rest with treachery and falsehood.

I cannot believe that so vital an error at such a conference could arise unwittingly; that a number of chief officials could meet a number of chief merchants for the purpose of arranging a very simple affair; that an hour and more could be occupied in deliberation; that discussion on both sides could be ample and general, and that after all the very point in question, namely, whether or not the Committee should stop where they were and take no further steps toward seizing and executing Casey, could be totally misun-

derstood. There was wilful prevarication somewhere; it is not reasonable, where all the mental faculties of keen and powerful minds were concentrated upon a single point, to account for the difference on the ground of stupidity. That subterfuge and falsification should rest at the door of the Committee I do not deem right; because, first, the members of the Executive were incapable of such conduct; secondly, they were incapable no less of being mistaken on the very question which brought them together than of wilful false promising; thirdly, they knew it to be beyond their power to keep such a promise; they were not the people, but only the mouthpiece of a mighty power which would not be further stayed by words; and lastly there was not the slightest interest or advantage to them in the alleged deception. Such is my opinion after a candid study of the subject; the reader may believe as he pleases.

Sherman and Johnson witnessed the seizure of Casey and Cora from the roof of the International Hotel. After the execution the two men returned, one to Sacramento and the other to his banking, both in deep disgust, and both deeming the affair over. And so it would have been in a few days more if the now angry governor had not been stirred to overt acts which placed it beyond the power of the Committee to retire without the loss of that wholesome influence which they had met to exert. This they would not do; the principle of vigilance they would not, could not abandon.

All was not harmony in the ranks of law and order. There were many of his own party, shrewder, wiser men, who took exception to the governor's concession in admitting the vigilant guard within the jail walls. And herein is my solution of the so-called misunderstanding. The governor, becoming dissatisfied with his bargain, or rather, seeing that he was compromised, and even made contemptible in the eyes of some

thereby, attempted subterfuge, accused the Committee of falsehood and treachery, and called on Sherman to witness the truth of what he said. The latter newly appointed, and willing to conciliate, tacitly acquiesced, until finally, hammered into heat by subsequent discussion, the false assertions of the party assumed the hue of half-reality in the general's effervescent brain, and fancies reiterated became clothed with the reality of fact. I may be wrong, but I see no other explanation at all consistent with reason which is half so charitable.

Pricked by friends and partisans who saw or fancied they saw their vocation slipping from under them, Johnson concluded to make another effort to crush rebellion, an effort this time more direct and pronounced. Among those who exercised a marked influence over the governor was David S. Terry, justice of the supreme court of the state of California, an able jurist of no inconsiderable will and courage, honorable according to certain ideas of honor, chivalrous after the manner of southern fire-eaters, with a cultivated mind, and, when he chose, engaging manners.

Judge Terry represented a class, the extreme and rabid law and order. It was the class denounced by King, who was as rabid on the side of public morality and purity. The law and order men, in their own estimation, were the cream of society, the salt of the earth, very honorable and high-minded gentlemen, by birth and education infinitely superior to Boston codfish dealers, and the natural rulers of America. It was with pleasure that these marked men saw King slain, and the slayer would have been safe enough in their hands. True, their passions began to warm as they saw the impudent rabble rise in defiance of majestic law, and when they dared desecrate the jail, try, sentence, and execute men in defiance of law, their blood boiled excitedly, and they swore that such things should not be.

So Terry planned a campaign which should annihilate

them, or send them slinking to their holes. The supreme court would issue a writ of *habeas corpus* for William Mulligan, then in the hands of the stranglers, which writ would of course be denied. The authority of the state being thus set at defiance, application for aid would be made to General Wool and also to Captain Farragut at Mare Island, who would surely not refuse it. Further than this, to aid in pressing the issue on General Wool, the militia should be enrolled and the governor should issue a proclamation declaring the city in a state of insurrection. There would then be apparently something more in the effort than the gratification of the personal views of the governor and the political spite of the judge; something more to justify the federal authorities in arming one part of the citizens of San Francisco to shoot down another part.

All things having been properly arranged at Sacramento Terry went down to San Francisco the 30th of May to attend to the *habeas corpus* matter, while Johnson with his secretary of state stopped at Benicia, telegraphing Sherman to meet him there. Though the *habeas corpus* had not yet been served nor the proclamation issued, it was deemed advisable to see General Wool at once, that they might know what to depend upon.

Mark now this interview and the result, and we shall see a performance somewhat similar to that which was acted at Turn Verein Hall and subsequently. The governor and his secretary and general found Wool at his office writing. The state of affairs was discussed. Sherman agreed that if Wool would give him arms and ammunition out of the United States arsenal at Benicia, and if Farragut would give him a vessel, he would enroll volunteers, bring Wool's arms in Farragut's ship to San Francisco, arm his men, take possession of a thirty-two-pound-gun battery then at the marine hospital on Rincon Point, order the Vigilance Committee to disperse, and arrest

the leaders, or if submission was refused would open fire on the inhabitants.

Sherman thought that Wool was struck by the beauty and perfection of the plan; it was simple and displayed well the martial traits of the new commander. But the old general was reticent. He did not think after all that San Francisco should be destroyed because her best citizens were earnestly endeavoring to cleanse the city of her moral and political impurities. General Wool talked with his visitors about their proclamation and their *habeas corpus;* next morning he inspected with them the arsenal where were four thousand muskets brought out in the *Lexington* round Cape Horn in 1846. Sherman pointed them out to General Wool and said that those would answer very well.

From all that transpired on that occasion Sherman inferred that General Wool would furnish him the arms. The party then drove over to Vallejo, crossed to Mare Island, and calling on the commander stated their errand. Farragut replied that he had no authority to take part in civil broils, that he doubted extremely the wisdom of their proposed step, and that he would lend them no assistance. The sloop *John Adams,* after certain needed repairs were made, might drop down abreast the city and there lie for moral effect, but nothing more. Sherman concluded he could seize one of the Pacific Mail Company's steamers and use it for his purpose.

The governor's party then returned to Benicia, and in a second interview with Wool, Sherman asserts that Wool positively promised that in case the *habeas corpus* was served and refused, and the governor issued his proclamation ordering the insurgents to disperse, and failed, and they should then call out the militia, on his, Sherman's, requisition, approved by the governor, he, General Wool, would order the issue of the arms. General Wool as positively asserts that he never made such a promise.

When we hear a person complain of being cheated at every turn, instinctively we avoid such an one lest he cheat us. When we hear a man accusing good men about him of dishonesty, we naturally conclude such an one is not very honest. Men who talk down the chastity of women are sure to be unchaste; and women who accuse their sisters of glaring faults we may be sure are most faulty in those respects themselves.

Now is it not a little singular that Johnson and Sherman immediately after their interview with the executive committee, should charge them with falsehood; that immediately after their interview with General Wool they should charge him with falsehood; that immediately any one who took part in, or sympathized with, the vigilant movement became *ipso facto* a villain, and that all journals that favored vigilance were ribald and mendacious? "Lord, Lord," with Falstaff cries Sherman, "how the world is given to lying! Coleman lies, Wool lies, everybody lies!"

When on Saturday the 31st of May Deputy Sheriff Harrison presented himself at the door of headquarters with a writ of *habeas corpus* which he wished to serve on William Mulligan, the Executive being in session at the time, Mr Dempster moved that the police in connection with the grand marshal have power and instructions to remove immediately the prisoners from the building for a few hours. The prisoners were disguised and removed. Mr Smiley then notified the sheriff's officer that he might search the premises. Mr Mulligan was not to be found. Mr Harrison, however, readily understanding affairs, returned the writ endorsed to the effect that he had been prevented from serving it by a body of armed men. Throughout the whole movement it was the earnest wish of the Committee to avoid collision with the authorities, or in any way to humble or bring discredit on law and good government.

To this end on the 20th of May the following course had been adopted:

"That a committee of three be appointed to wait on the governor of this state, and on the mayor, and assure them that this Committee have no desire or thought of interfering with the regular discharge of their duties, and only desire to take cognizance at present of outrageous cases of crime and rowdyism which the laws have been tardy in executing or cannot reach; that we do not encroach on the regular execution of law or the maintenance of order, provided the laws be enforced or carried out, but we desire peace and order, and it is that consummation we are aiming at, and would be pleased to see all legally constituted authorities proceed in civil or criminal cases as though this committee were not in existence. We have not nor do we desire to encroach on the civil authorities whenever they are properly discharging their duties."

Terry retired to Sacramento wrathful; and from Benicia Johnson returned to the capital and Sherman to San Francisco.

In the journals of June 4th appeared the following general orders. First were given extracts of an act concerning the organization of the state militia passed April 25, 1855, signed and certified by J. W. Denver, secretary of state. Then came the following order from the governor and commander-in-chief to William T. Sherman, major-general commanding the second division of California militia:

"Executive Department, Sacramento City, Cal., June 2, 1856.

"Sir: Information having been received by me that an armed body of men is now organized in the city and county of San Francisco, in this state, in violation of law, and have resisted the due execution of the law, especially by preventing the service of a writ of *habeas corpus* duly issued, and is threatening other acts of violence and rebellion against the constitution and laws of this state. You are therefore commanded to call upon such number as you may deem necessary of the enrolled militia, or those subject to military duty; also, upon all of the volunteer or independent companies of the military, within the military division under your command, to rendezvous at such time and place within the county of San Francisco as you may deem necessary and proper to aid the civil authorities, especially the sheriff and his deputies of said county, in enforcing the laws and rendering obedience thereto, and with such forces as you may be able to command, to aid and assist the enforcement of the laws, and the service of such legal process as may be required of you by such officers of the law as may command your aid. In the organization and equipment of such militia force, you will be governed by the law and regulations now in force.

"Very respectfully, your obedient servant,

"J. Neely Johnson."

Next was the general order of the commander of militia:

"The officers commanding the volunteer and independent companies of this city will proceed forthwith to fill their companies to the highest standard, and will report in person the strength and names of the members of their companies to General W. C. Kibbe, adjutant and quartermaster general, at the recorder's court-room, city hall. The companies will hold themselves prepared to assemble at such places as may hereafter be indicated. All enrolled members of these companies are hereby commanded to report to their respective captains or commanding officers, who will report the names of all who refuse to obey, with such evidence of their disobedience as will bring them within the provision of section two of the foregoing act of the legislature. All citizens of San Francisco County, between the ages of eighteen and forty-five years, not members of the regularly enrolled volunteer or fire companies of the city, or not otherwise exempt from military duty, are hereby commanded to enroll themselves into companies of from fifty to one hundred men, to elect from their own number a captain, one first lieutenant, two second lieutenants, four sergeants, and four corporals, and to agree on a place of rendezvous, in case their services are called for. The captain or other commanding officer will prepare a roll of the names of the members of his company and the place of rendezvous, and will deposit the same with Adjutant-general Kibbe, at the recorder's court-room, city hall. Parties refusing so to enroll themselves are brought within the provisions of article twenty of the act before named. Citizens so enrolling themselves for future call are requested not to suspend their usual business, only to hold themselves prepared for service in case of further orders. Should they be called into the service of the state, arms and ammunition will be provided for them. The major-general commanding takes this occasion to say that the troops to be organized under this call have nothing to do with the exciting issues of the past two weeks. The only question is, shall the laws of the state of California henceforth be sustained? All violence of act or language is to be deprecated, and no force or threats must be used without my orders. The good citizens of San Francisco should reflect that we all hold our lives and property by force of law, and that a forcible resistance of the law does not end with the case in point, but may rise up against ourselves in some other and less pleasing form, and may injure our reputation in other states, where the evils we complain of are not felt. Civil war, or the array of armed citizen against citizen, is too horrible in its consequences to be spoken of, and it is to be hoped that all good citizens will forthwith return to their business, and cease any display of force or resistance to the regular operations of our courts of law.

"W. T. SHERMAN, *Major-general.*"

Then follows the proclamation of the governor:

"EXECUTIVE DEPARTMENT, SACRAMENTO CITY, June 3, 1856.

"WHEREAS, satisfactory information has been received by me that combinations to resist the execution of legal process by force exist in the county of San Francisco, in this state, and that an unlawful organization, styling them-

selves the Vigilance Committee, have resisted by force the execution of criminal process, and that the power of said county has been exhausted and has not been sufficient to enable the sheriff of said county to execute such process. Now, therefore, I, J. Neely Johnson, governor of the state of California, by virtue of the power vested in me by the constitution and laws thereof, do hereby declare said county of San Francisco in a state of insurrection, and I hereby order and direct all of the volunteer militia companies of the county of San Francisco, also all persons subject to military duty within said county, to report themselves for duty immediately to Major-general Wm. T. Sherman, commanding second division California militia, to serve for such term in the performance of military duty under the command of said Sherman until disbanded from service by his orders. Also that all volunteer military companies now organized, or which may be organized within the third, fourth, and fifth military divisions of this state; also all persons subject to military duty in said military divisions, do hold themselves in readiness to respond to and obey the orders of the governor of this state, or said Sherman, for the performance of military duty in such manner and at such time and place as may be directed by the governor of this state. I furthermore order and direct that all associations, combinations, or organizations whatsoever, existing in said county of San Francisco or elsewhere in this state, in opposition to or in violation of the laws thereof, more particularly an association known as the Vigilance Committee of San Francisco, do disband, and each and every individual thereof yield obedience to the constitution and laws of the state, the writs and processes of the courts, and all legal orders of the officers of this state, and of the county of San Francisco.

"J. Neeley Johnson."

The governor's *casus belli* rested on a false and flimsy foundation. The proclamation was condemned by all, except the more rabid of the law party, as bellicose and dictatorial, and it tended only to establish the Committee more firmly than ever in their determination. It forced them to prepare for self-defence, to strengthen their position, and to exercise if possible greater vigilance against surprise. It won for the Committee many friends throughout the interior, among men who saw that party and passion had taken the place of principle in the governor's breast, who saw that but for this ill-advised step there would have been but little further excitement or trouble. There was not the slightest necessity for interference. The courts were all in session; neither business nor pleasure was interrupted; the wheels of government were running smoothly; the vigilants

were doing everything in the power of man to assist the law, often helping officers to ferret crime and leaving the criminal in the law's hands. And further, if it was not a serious political blunder, it was to say the least ill-advised and ill-opportune. A call at that time for the militia to invade San Francisco was like the summoning of spirits from the vasty deep; the governor might cry until his throat should split, there would be few to answer.

The Committee would lay down their power the moment their work was done, and no attempted coercion would make them do it sooner. This the governor, judge, and general knew to be true, for of such they had been assured by men whom they could but believe. But then it would look so meanly in pretentious law and blustering military to slink back into place tamely permitting the people to execute a duty which they were unable to accomplish. No, they must have a cowardly fling at their benefactors if only as a manifestation of belief in the existence of their own courage.

Little fear was entertained from this inconsistent action of the governor and the general of militia—inconsistent in two points; first, the governor had held back and given the Committee full sway for a fortnight, permitting them to become thoroughly organized and firmly established before taking any steps to put them down, and secondly, in the governor's stating in his order that information had been received by him, etc., and the general's saying that the troops to be organized under his call had nothing to do with the exciting issues of the past two weeks. The people, however, were not frightened. There was little danger of civil war, of arraying one part of the people in open hostility to the other part. That this man was called governor and that man general did not make an army; that one cried blood! and the other damnation! did not annihilate the organized virtue and intelligence of San Francisco, which was

fully prepared to wade through real blood and lay their lives if necessary upon the altar of outraged justice. If this governor and this general waited for the people to enroll themselves in their behalf, they would have long to wait.

Here is the advice of the Sacramento *Union*, a conservative and influential journal: "It has been proclaimed that all persons liable to do military duty should hold themselves ready to march at the command of the general-in-chief. Our advice to all such persons is to do as we intend to, remain at home and attend to our own business."

It seems that these officials had yet to learn the rudiments of our government. It seems that they supposed that laws could be here enforced by armed hirelings against the will of a majority of the people; that American freemen, with arms in their hands, were to be intimidated by those whom they had clothed with office; that Californians were as susceptible of despotism as Russian serfs; that because Louis Napoleon backed by a large standing army took the French by a *coup d'état*, they could take the San Franciscans in like manner.

"There is no sufficient cause to justify a resort to the military arm," says the editor of the Sacramento *Union* in his issue of June 5th. "There is no insurrection in its true sense in San Francisco. The people have declared war against ballot-box stuffers, thieves, felons, and perjured villains; they ask to be permitted to send such cattle out of the community. Beyond that they have in no instance interfered or offered to obstruct the administration of the law. The courts are in session as usual, and can obtain any assistance needed to execute process, except against the class of hounds belonging to the secret gang the Committee are determined to root out. They have destroyed no property; they are in no sense mobites or insurrectionists. The people of San Francisco are battling for the right, for the moral, the good, the

virtuous, against wrong, outrage, the immoral, the bad, and vicious; and we believe they will be sustained as they ought to be, by the pulpit, the press, and the people."

"In all seriousness," writes the *Globe's* editor, the same date, "we ask if Governor Johnson really believed the city of San Francisco to be in a state of insurrection; if he supposed for one instant that we, as citizens of the state, contemplated a nullification of its laws; that we had banded together, wasted time and money, and incurred all the responsibilities involved, for the sole purpose of opposing the ministers of the law in the performance of their sworn duties? Does his excellency know anything? Or will he still persist in his know-nothing ideas of the present movement of the people of this city? Must we again inform him that we are the real law and order party; that the people have not done anything but what the law should have done, and that they do not contemplate doing anything further than the enforcement of the act entitled an act for the punishment of vagrants, in a somewhat modified but vastly improved form—ridding the country of them instead of keeping them confined in our local jail at public expense, pensioners instead of convicts?"

"Could anything be nearer the climax of absurdity," asks the *Bulletin*, referring to Johnson and Sherman, "than their behavior has been? Their defence of their conduct is based entirely on technical legal grounds, and yet the documents they issue as the preliminaries to action, are lacking in the very essential which they claim is indispensable! Their conduct is illegal, and yet they have the audacity to call on the public to aid them in sustaining law against an illegal body, the Vigilance Committee. Now the order of the major-general has no more binding effect as a legal document than the summons of the Vigilance Committee."

"The proceedings of the Executive and his soldier-

banker assistant are based on a lie, a lie which the thinking citizens of San Francisco at once detect and despise. There is no 'armed body' in San Francisco which is 'threatening acts of violence and rebellion against the constitution and laws of this state,' unless the armed body which proceeded to enroll itself yesterday in pursuance to the 'general orders' may be considered as such. The city is quiet, the citizens are satisfied, and woe be to those who transform our streets into a battle-field. The work must go on, peaceably if possible, but it must be finished. No pen-and-ink artillery can frighten either the executive body of reformers or their supporters."

In answer to the charge of feeble-mindedness and vacillation the governor replied that in the incipient stages of the movement he did not consider himself in possession of sufficient force to render action effectual. This was a weak subterfuge. It was patent to the simplest mind that delay had not strengthened his position at all; and that if this was a sufficient excuse at the first, it was a still better one when he began to stir. Besides, such a contingency never should have been considered at any time. His duty was to act or not to act, to proclaim an insurrection or not so to proclaim. That duty done, if he lacked the power to enforce his mandates it was no fault of his.

It seems never to have occurred to the governor and his general that nothing short of a large and standing army could effect their purpose. In spite of them the organization could exist, if not palpably then impalpably. The murderers taken could be hanged and the lesser criminals expatriated, or otherwise spirited away, while the law and order forces were marching on them, if necessary. The Committee could then have scattered to their homes leaving nothing but the empty rooms for the soldiers to seize. But this the Committee never would have done. So strengthened, as they proceeded, had the opinion in

them become, as to the correctness of their course, that now they would have fought to the death for the principle. Though their work were done and they were ready to relinquish their post, they would not do so under mandate of the law; they would not so acknowledge their course to have been an error. They claimed they possessed in themselves the right to do as they had done; that right they should exercise whenever duty called it out, and for that opinion and principle they would fight.

CHAPTER XVII.

FUTILE ATTEMPTS AT RECONCILIATION.

Do you not know me, Mr. Justice?
Justice is blind, he knows nobody.

Dryden.

THERE were yet in the good city of Saint Francis certain honored and esteemed men who held the people's interest above personal impulse or party spirit, who were neither of the vigilance committee nor yet of the law and order party, but who enjoyed the respect and confidence of both factions.

And here I have an incident forgotten by General Sherman, both in his letter and in his *Memoirs;* and as it redounds to his credit in a greater degree than anything I find therein mentioned, I take the more pleasure in giving it. For the truth of my statement I have before me the records of the executive committee, and the dictation of Mr Coleman.

In the former I find written in the minutes of a special session held at four o'clock on Wednesday the 4th of June, the following motion made by Mr Truett and carried, "That Mr Crockett be admitted before this body, provided he can speak the sentiments of Major-general Sherman. Mr F. W. Page was appointed to wait upon Mr Crockett and accompany him to the executive committee rooms." The meeting then adjourned, and next day Mr Crockett appeared before the Committee and made propositions which will be given hereafter. Mr Crockett then retired to an adjoining room at the request of the Committee and waited their reply. After some discussion

a committee was appointed consisting of Dempster, Smiley, and Truett, to wait on Mr Crockett at his office that evening and there to communicate with Major-general Sherman.

Hear now what Mr Coleman says: "About the same time"—he had been speaking of the proposition of ex-Mayor Webb, and others hereinafter mentioned to found with the vigilance committee a new Pacific States empire—"General Sherman made overtures to us, through Judge Crockett, and other prominent highly respected citizens, to the effect that if the Committee would not resist the writ of *habeas corpus*, one great difficulty between the state authority and ourselves would be removed. We appointed a committee of conference upon this and other subjects, and reassured the general and the state authorities of our desire to avoid any conflict that it was practicable to escape; that we most cheerfully accepted the proposition to admit, accept, and allow to be served any regular writ of *habeas corpus* that should be issued by the regular courts; that to us it had been the most embarrassing question we had had to meet, and that we had never refused the writ, although the service had been avoided, and it was laid at our door that we had, while the fact was that the officer having it in charge had retired after making a faint effort at service, whereas, energy and determination on his part, as an officer, would probably have procured service.

"We further told them that we would, as far as consistent with our undertaking and duties to ourselves, and the trust that had been charged to us, do everything to avoid not only seeming conflict with the officers of the law, but even with the fair, good opinion of any of our citizens. It was objected that our military was filling the streets, making unnecessary display, and exciting the fears of one portion of the community and the prejudice of the others. In answer to this we proposed and ordered that our troops should

not parade the streets any further, except it be in an action of emergency and necessity, and under orders of the Executive; and we went so far as to make every proposition we could, take every step we could toward conciliation and peace, and stated distinctly that what we wanted was not to increase our work nor the appearance of it; not to increase our importance nor the appearance of it, but that we be allowed as much as possible to be left alone until we could consummate what we had undertaken, and we were in honor bound to complete, and to disband. One committee of citizens kindly undertook to ask the governor of the state to withdraw his proclamation which ordered the Committee to disband, and we were invited to join in the request, which of course we could not accede to, though it would be most in harmony with our wishes, and contribute most largely to our ability to conclude our work, if the governor should do so, and remove one of the great irritating causes of the hour."

After these several consultations of the Committee with Crockett and Sherman, Mr Crockett asked several gentlemen to unite with him in forming a conciliation committee for the purpose of further attempts at reconciliation between the people as represented by the Committee and the people as represented by the governor, the general, and the judge. These communicated with the governor and desired an interview, naming Benicia as a proper place, lying as it did midway between the metropolis and the capital. Accordingly on Saturday the 7th of June, the governor and his advisers, among whom were Douglass, secretary of state, Volney E. Howard, Terry, and McCorkle, came down as far as Benicia in the steamboat *Antelope,* and the citizens' deputation went up the same evening on the *Bragdon.* Sherman also was there, as well as Jones, of Palmer, Cook and Company, and E. D. Baker.

The Sacramento party were first to arrive and take up their quarters at the hotel. Shortly afterward the

San Francisco party entered the hotel and notified the governor of their readiness to wait on him. In a somewhat dictatorial and impertinent manner they were informed by Terry and Howard that they could not be admitted to the governor's presence except on written application. Smothering for the good of the cause the feelings arising from what they deemed contemptible if not insulting conduct, they sent in the following communication:

"BENICIA, June 7, 1856.

"*To his Excellency, J. Neely Johnson, Governor of California:—*

"SIR: The undersigned, citizens of San Francisco, on their own behalf, and on behalf of a large portion of the people of that city, respectfully ask a personal interview with your excellency touching the present alarming crisis in its affair.

"J. B. Crockett, E. W. Earl, F. W. Macondray, James V. Thornton, H. S. Foote, James Donahue, M. R. Roberts, John J. Williams, John Sime, Balie Peyton, E. W. P. Bissell."

They were then permitted to enter the governor's presence. J. B. Crockett as chairman of the deputation informed the governor that he and his associates were in no wise connected with the Committee of Vigilance, but, actuated solely by a desire to prevent a collision, they had come in the general interests of the city. He could not speak definitely for the Committee, but he felt authorized to say that the Committee would do nothing to instigate a collision, that they would desist from further exhibition of armed forces in the street, and that hereafter they would yield obedience to all writs of *habeas corpus*. The deputation, he said, had visited the Committee rooms before leaving the city, for the purpose of determining a settled plan, but time had failed them to complete it. Finally Mr Crockett urged the governor not to precipitate the crisis, assuring him that the Committee would soon disband voluntarily.

During the conference the governor, assuming an air of complacent bravado, sat with his feet elevated smoking a cigar. Terry sat with feet still higher and covered head, his hat drawn partly over his eyes.

When Mr Crockett had finished, the governor stated that his answer would be given in writing. The deputation then withdrew, and shortly afterward the following communication was handed them:

"BENICIA, CAL., June 7, 1856.

"*Hon. John B. Crockett and others, committee from citizens of San Francisco:—*

"GENTLEMEN: In reply to the verbal communication made to me this evening, in relation to the existing condition of affairs in the city of San Francisco, I have to say that the hope you have expressed that the unhappy difficulties of which you have made mention may terminate without bloodshed, fully accords with my own desire, and I can assure you that nothing shall be done on my part which shall not imperatively be rendered necessary to secure a compliance with the executive proclamation, issued by me on the third instant. By virtue of the constitution of this state, it is made my duty to enforce the execution of the laws. This duty I shall perform, and if unhappily a collision occurs, and injury to life or property result, the responsibility must rest on those who disregard the authority of the state.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON."

The *Bragdon* and the *Antelope*, which had awaited at the Benicia wharf the conference of their distinguished freight, now received the parties on board, the former that of the governor returning to Sacramento, and the latter that of the San Francisco deputation which returned to the city.

"In the eyes of all calm thinking citizens," comments the Sacramento *Union* on this conference, "the action of the executive at Benicia will place him decidedly in the wrong. The members of the committee of citizens unite in saying they were never before so formally and discourteously received on any occasion. When they appeared in the presence of his excellency and friends, they were permitted to stand during the interview." And thus the *True Californian*: "The governor was respectfully approached by able and conscientious gentlemen, not affiliated with the Committee, nor bound in any way to acknowledge its power, on behalf of the peace-loving inhabitants of this city, who felt it a sacred duty to represent to him the true state of the public mind. They found him surrounded by the hottest and most heedless of all who

have taken ground against the people, and met with a repulse at their hands, which must have stung them with mortification and shame."

"These gentlemen," says Coleman, speaking of the conciliation committee, "with a large number of people waited on the governor at Benicia, represented the state of affairs, and as far as I understand it undertook to be mediators between the state authorities and the Committee, requesting the state authorities to desist from threatened forcible military action against the Committee, and promising their own good efforts and the coöperation of others with them in behalf of an early restoration to the normal condition of affairs, if this could be assured and accomplished. This committee were provided with the pledges of our body that they would cease to increase their military establishment, cease to parade the streets and make military displays and demonstrations, allow full force to the writ of *habeas corpus*, do everything on their part required towards the early restoration of peace, provided the state forces were disbanded, and we be allowed, undisturbed, as above indicated, to complete our work. All this effort on our part, all our overtures, advances, concessions were unfortunately misunderstood to mean weakness or timidity on our part, and it was thought a fitting time on the part of the governor and his advisers to make a more bold demonstration than ever, to decline every proposition, make no terms with us at all, and carry out the plan of intimidation, or, as they fancied it, conquering a peace, and ordering our submission. Seeing the evident effect this had produced, regretting sincerely the mistake the governor and his advisers made, not only as to our views and wishes, not only as to our strength or weakness, but also what we regarded as a blind and unstatesmanlike policy on his part, and appreciating in the fullest degree our responsibilities, and all the risks and hazards and perils of our position, we determined that there was but one course left to us, and that was a calm, courageous, de-

termined, unremitting effort to maintain our position and accomplish our work, by a vigorous prosecution, if need be a dignified silence, a determined effort in the direction of right, and a strict avoidance of wrongs towards every one. We therefore withdrew the proposition we had made through the committee of citizens to the governor and his authorities, and determined to meet the conflict of arms as manfully as we could, should it be precipitated upon us, and we went energetically to work to further fortify our military position, increasing our forces, doubling our vigilance, strengthening our position, and redoubling every effort and precaution."

So indecent were Johnson and Terry in their conduct toward Crockett and the conciliation committee, that even Sherman became ashamed of the company he was keeping; and no sooner had the governor finished his written answer to Crockett, which was pronounced by the general to be so scratched and amended to suit the views of various counsellors that it amounted to nothing, than Sherman sat down and wrote his resignation. It was immediately accepted, and Volney E. Howard, a lawyer then present, and once member of congress from Texas, was appointed to the place. Thus with a law-abiding judge, and a law-abiding general, the governor was prepared to "sweep the damned pork merchants into the Bay."

On resigning his commission Sherman indited a communication, "To my friends in California," in which he stated that he was not an advocate of the Vigilance Committee, but that when he had received the order of the governor to organize the militia, he promised when a sufficient number were enlisted to equip and muster them into the service of the state. "I based my promise," said he, "of arming the enrolled militia, on a verbal assurance given to Governor Johnson by General Wool in my presence, to issue from the United States arsenal, on a proper requisition, such arms and munitions of war as the

emergency might call for. It is now no longer a secret, that when the written requisition was made, General Wool had changed his mind, and had discovered that he had not the legal power to grant the request."

The tenor of these words places General Wool in the position of having made a promise and failed in keeping it. This is not true. General Wool never wavered nor changed his mind. He promised arms whenever a proper requisition was made, whenever he was directed by the president to turn them over to the governor. Wool was convinced, all the time, that he had no right to grant the governor the use of United States arms without being so directed by the authorities at Washington. Volney E. Howard and E. D. Baker waited on Wool and endeavored to intimidate him, threatening, in case he persisted in refusing the law and order party the use of United States arms, to report him at Washington. The eye of the old veteran flashed and his form rose perceptibly in stature. "I think, gentlemen, I know my duty, and in its performance dread no responsibility," he said, as he bowed them from the room.

Further than this, it appears that Johnson became dissatisfied on account of Sherman's delays and excuses. The governor was eager for war. His proclamation had no more effect on the people than a paper bullet. Sherman was ready enough to fire on the citizens, but he must have men and muskets. So they quarrelled, and Sherman felt bound to afford Johnson an opportunity "to select some representative here whose ideas were more consonant with his own."

"Sherman has resigned his commission," says the *Bulletin* of June 9th, "General Wool has refused to grant the reactionists aid, and the enrolments which were to number myriads barely reach on paper the tenth part of the predictions of the law and murder press. The governor is still firm, but it is the firmness of the quadruped most noted for its stupidity."

Johnson and Sherman manifested great surprise when some one informed them that if they expected arms and ammunition from General Wool they would be disappointed. Sherman immediately wrote Wool saying that any hesitation on his part would compromise him, Sherman, as a man of truth and honor—which was indeed a matter of great moment to the world, the cause in comparison being nothing—adding "that I did not believe we should ever need the arms, but only the promise of them, for the Committee were letting down, and would soon disperse and submit to the law." This was not a true statement in three particulars. Sherman well knew that the Committee would fight if necessary, that they never were stronger, their enthusiam never was higher, and that their numbers and efficiency were daily and hourly increasing, and that the arms would be used, and on their use would depend their success. To this letter General Wool simply but firmly denied ever having made such a promise. The governor was very angry, denounced Wool as a "damned liar," whom he would never again recognize as an officer or a gentleman.

Johnson also wrote Wool, though he would neither see nor speak to him, nor even lodge under the same roof with him, so greatly had his understanding been offended. Says the governor to General Wool, under date of the 7th of June:

"It is now manifest that the power of the military of this state is urgently and absolutely demanded for the suppression of such disregard of the constitution and laws, and for that object a large military force is now in course of organization, under my sanction and authority. It is a large force we will necessarily have to encounter; and for the due protection and maintenance of the authority of the state, I now request of you a sufficient supply of arms, accoutrements, and munitions of war for the use of the state forces; and I guarantee, as the executive of the state, that the same shall be returned or paid for.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON, *Governor of California.*

"*Major-general John E. Wool, Commanding Pacific Division, U. S. A., Benicia.*

"P. S.—On a former occasion, to wit, the 31st day of May, 1856, you promised me, on the happening of a certain contingency, indicated by yourself, which, from the foregoing communication, you will perceive has occurred, that you would furnish on my order, as the governor of the state, such arms as I wanted. I doubt not you will not hesitate in the present emergency to comply with the request now preferred; and that the order I now make may be rendered more specific, I will ask that you furnish me with three thousand stand of muskets or rifles, fifty rounds of ammunition, two mortars, three hundred shells, and two guns of as large calibre as you have, with their ammunition and appliances.

"J. NEELY JOHNSON, *Governor of California.*"

General Wool's reply to this letter simply stated that Governor Johnson was mistaken in the matter of promise and that he did not deem it judicious to comply with his request. As the general's reasons for his refusal are more fully set forth in a letter directed to Governor Johnson in answer to a charge of falsified promise preferred by the governor before the authorities at Washington I insert it here.

"HEAD-QUARTERS, DEPARTMENT OF THE PACIFIC,
BENICIA, CAL., September 17, 1856.

"SIR:

"In your request, dated the 19th of June, to the president of the United States for aid and assistance in the enforcement of the laws of California; and that he might the better understand the propriety of readily granting such request, you beg leave to present a brief recital of events which have recently transpired and rendered necessary such application.

"In your recital of events, you say that 'on the 3d day of June I issued a proclamation declaring the county of San Francisco in a state of insurrection. To General Wool I had previously, in a personal interview, detailed the condition of affairs, of which matters he was fully informed otherwise. At such interviews he unhesitatingly promised me, on the representation made him that we were almost wholly destitute of arms, and of ammunition we had none, to furnish on my requisition, when we wanted them, such arms and ammunition as I desired.'

"That you should have made this declaration, that I 'unhesitatingly' promised you arms and ammunition—greatly surprised me; for it is not possible it should have escaped your recollection that, when you verbally applied to me, on our first interview, for arms and ammunition, at my lodgings, on the 30th of May, I 'unhesitatingly' told you that I had no authority to furnish you with them; that the authority in such cases rested with the president of the United States. See my letter addressed to you 9th of June. I also told you, at the time, that an officer for issuing arms, in a case somewhat analogous to the one presented by you, was dismissed the service by President Jackson.

"Previous to which, however, you presented in detail the condition of affairs in San Francisco, when I remarked that you had lost the golden opportunity of putting down the Vigilance Committee; that it should have been resisted at the jail, which ought not to have been surrendered without resistance. You replied that it could not have been done at that time, for a large majority of the citizens of San Francisco were in favor of the Committee. You further said that Casey and Cora merited their fate, and if the prisoners then in custody of the Committee were sent away it would be a great blessing to the country; and if the Committee would stop there, you would not interfere with its proceedings. You, however, being satisfied that such would not be the case, and that it intended to go on in its unlawful proceedings, had determined to arrest its further progress. Believing, from your own statement, that a large majority, not only of the citizens of San Francisco, but of the state, were in favor of the Vigilance Committee, I advised against too much precipitation; and as you had waited so long, some ten or twelve days, without adopting any efficient measures to stay its proceedings, I said a few days' longer delay could do no harm. You said, however, the time for action had arrived, and that the Committee must either be put down or arrested in its unlawful course. Such was substantially the conversation which passed between you and myself at our first interview. After the declaration made at that time, that I had not the authority to furnish you with arms—that the authority rested with the president—it appears to me passing strange, and it is beyond my comprehension, that you should have asserted in your communication to the president that I unhesitatingly promised you arms and ammunition. But if such was the case how came Major-General Sherman, during your visit to Vallejo, to call your attention to the fact that I had not promised you arms etc., and that you should obtain the promise from me before you left Benicia? Accordingly, as he states, whilst at the steamboat-landing you called me, with the general, aside, no one else being present, when, according to his statement, I promised to issue from the United States arsenal, on a proper requisition, such arms and munitions of war as the emergency might call for. There is a wide difference between your assertion and his as to the promise. It appears, however, from his statement, that the promise was not made unhesitatingly, but twenty-four hours after the first interview, and after you returned from Vallejo, and while on the steamboat wharf, where I went to take leave of you on your return to Sacramento; and that the arms and ammunition were to be issued 'on a proper requisition,' and 'as the emergency might call for.' Whether I made the promise as asserted by yourself or Major-general Sherman, cannot materially affect the matter at issue. The question you had under consideration was of the highest importance—one which might no less involve the destruction of a city than the lives of many citizens, besides the welfare and prosperity of California. Under these circumstances, I could not doubt, before commencing operations, you would examine all the laws bearing on the question—those of the United States as well as this state. The object for which you desire to obtain arms, as you stated, was to maintain the majesty of the law, and to put down those who were violating it. Even if I had promised you arms, without reservation or qualification, would you have insisted upon my fulfilling the promise, if you dis-

covered that it was in violation of law? I am unwilling to believe that you, the executive of the state, bound to see the laws faithfully executed, would violate them, and certainly not to urge it upon myself. As your object was to enforce respect and obedience to the laws of California, you certainly ought not to censure or complain of me because I would not comply with a verbal promise, of which I have not the slightest recollection, when such a compliance would be a gross violation of the laws of the United States. You may say that I ought to have known what the law was before making the promise. I did know it, and communicated it to you at our first interview, and therefore it is that I cannot bring myself to believe that I could have made any promise incompatible with the law. If it was incumbent on me to know the law, it certainly was much more so on your part, in this particular case. If you had known the laws bearing on the question, I cannot believe that you would at the time have issued your proclamation, applied to me for arms, or appealed to the president for aid in enforcing the laws of California. For your proclamation of the 3d of June declares 'the county of San Francisco in a state of insurrection,' and it is in exactly such a state of things that any officer under the president is prohibited by the law of Congress from issuing any arms or munitions of war. Your first official application for arms was made on the 4th, and your second on the 7th of June. Both were officially declined, the first on the 5th and the second on the 9th—when I officially informed you that the authority to comply with your request belonged exclusively, in such cases, to the president of the United States, of which I also informed you at our first interview, 30th May.

"In conclusion, I would merely say, from a remark in your communication to the president, and the sayings of some of your special friends, that I was influenced by some of the Vigilance Committee, or their sympathizers, that yourself and suite, numbering four altogether, and Colonel Baker, and Volney E. Howard, are the only persons who called on me to consult, advise, or converse upon the subject of the contest waged between the Vigilance Committee and the law and order party.

"I am, sir, very respectfully, your obedient servant,

"JOHN E. WOOL, *Major-general.*

"*To His Excellency J. Neely Johnson, Governor of California, Sacramento, Cal.*"

No one can read this manly and dignified letter of the veteran general without being satisfied of the integrity of the writer and the truth of his words. The quiet rebuke of the governor's course is all the more effective in view of the absence of abusive epithets such as might not unreasonably be looked for in a military man upon whom the charge of failure to keep a promise had been laid.

There are many happy wives to-day in California who may thank Wool and Farragut that they are not

widows; many sons and daughters who may thank these humane officers that they are not orphans. To them is due that rare reward, the honor of minding their own business.

"No circumstances have transpired," says the Sacramento *Union*, "since the great moral movement commenced in San Francisco, which have gone so far to convince us that a blood-thirsty, ferocious, if not demoniac disposition controlled the councils of the state, as those of secretly shipping arms to San Francisco, and applying to the general government for aid. These transactions go far to exhibit the fell spirit which guides the acts of the generals and officers of state. The first proves them capable of secretly furnishing the means to take the people by surprise, and of shooting all citizens of San Francisco in the streets, and in their own houses, unless they surrendered unconditionally to these new-fledged tyrants. These temporary officials seem disposed to act as arbitrarily as if they were hereditary princes, despots of the first water, born to rule and ride over their subjects. They forget that they only hold power for a day, and only as trustees and agents for the people. The people are the principals, and if their agents put on too many of the airs of despots, of petty tyrants, they may consider it necessary for their own protection to remove their agents and put others in their places."

One should hear the classic tongue of Mr Dows to gain an idea of the feeling of the Committee to this day toward General Sherman. "Sherman was opposed to it," says his dictation, "and talked like a damned fool in some communications that he has made since about what he did; but he had not the means and could not have done anything if he had tried, and would have found it a damned sight worse job than walking through Georgia. If he had attempted to do anything in opposition to the Committee, we would have strung him up as we would a dog. Farragut was our friend, as far as he could be with

propriety in his position, as an officer of the government."

That Sherman really intended to carry into execution his plan of bombardment in case he had the power; that he was by nature so blood-thirsty and by education so fanatically cruel as to slaughter a city full of free intelligent citizens of the United States whose only crime was virtue, whose only misdeed was a pure unselfish effort to cleanse their political and social atmosphere of its immoralities, I could not myself believe but for his own reiterated assertions, assertions in which he seems to take much military pride and personal satisfaction. Some of the best men of the vigilants came to me and remonstrated, he boasts, "saying that collision would surely result; that it would be terrible, etc. All I could say was for them to get out of the way. Remove your fort; cease your midnight councils; and prevent your armed bodies from patrolling the streets." Again, when Crockett and his party attempted conciliatory measures: "I told them that our men were enrolling very fast, and that, when I deemed the right moment had come, the Vigilance Committee must disperse, else bloodshed and destruction of property would inevitably follow."

Meanwhile, Judge Terry was putting forth his utmost exertion to stir up enmity toward the Committee, and Olney was ordered to present a stronger defense as the Executive would hold him responsible not only for the safety of the prisoners but of the premises likewise. Round Fort Vigilance the streets were cleared for a distance of two blocks in every direction. Six brass pieces were made ready. Within the breastwork of gunny bags were placed one hundred French musketeers, with two cannon pointing up Sacramento street and two pointing toward the direction of the moral-effect craft the *John Adams*. On the roof were swivels loaded with grape; the guard, both police and military, were constantly under

arms, and the triangle was ready to bring out the entire force at a moment's notice.

A proposition was made the Committee the 2d of June by ex-Mayor Webb and other influential men of San Francisco in view of the present state of things to call an extra session of the legislature. They were confident that body would have a majority in favor of vigilance, and control the apparently rash and inimical action of the governor. The Committee deemed the proposed action inexpedient; but whether taken or not the Committee could have nothing to do with it, the seventh article of their constitution prohibiting them the consideration of any political measure whatever.

The principle, assuredly paradoxical as applied by adherents to constitutional forms of secession, now began its manifestation on these shores. Southern discontents argued that division among the states was inevitable, and that as the Pacific Coast was separated from the Atlantic geographically, so it was destined shortly to be politically. Here was a spot designed by nature and circumstance for the founding of an independent empire, and accident had opened the way for its initiation. The first bold step toward separation had unconsciously been taken, and now for the Vigilance Committee to declare California's independence of the United States would be a grand beginning of glory. It would be a movement eminently popular with their opponents, who the moment their prejudices and interests demanded the downfall of law were ready to cry up the rights of the people as lustily as any. Then the Mulligans, and Sullivans, and Brannagans, and Bulgers they might strangle to their hearts' content; greater game than petty municipal office should hereafter be the object of their sacred aspirations.

That there were some in the Committee whose affections were with state secession there can be no doubt; but that the body as a whole, composed as it was of

nine tenths northern and foreign non-political merchants and mechanics, favored separation from the government of their fathers, or ever dreamed of it, or ever would have entertained the proposal for a moment, no intelligent person ever imagined. "True," says Mr Coleman, in speaking upon this subject, "we were technically rebels, as we had nominally resisted the law, and had taken it into our hands; but it was purely technical, for no more loyal citizens existed in the broad domain of the Union than in our ranks."

Some three or four weeks after the organization of the association, the editor of the *Bulletin* notified the Executive that Balie Peyton, H. S. Foote, and others had offered an article for publication which they desired the Committee to endorse. Truett and Jessup were sent to look at it; they pronounced it revolutionary and wholly opposed to the views entertained by the Executive, so that it was not printed. These men professed great friendship for the Committee; in a confidential way they informed the vigilant delegation that they could now neither go back nor stand still, that unless they threw off the government entirely all their necks would be in the halter. Think of it, eight thousand San Franciscans hanging at once! And yet, strange to say, nobody was frightened.

In view of the foregoing, and that the people of the coast might know exactly where the Committee stood on these most vital questions of the age, the Executive determined to issue an address setting forth the necessity which called the organization into existence, and its original and present determination to disband the moment that necessity ceased to exist. Further than this the Committee believed their labors now about at a close, and they would not the movement should be misunderstood, or the organization used by act or implication as part of or preliminary to any political scheme. This was right; it was the only thing

to do. Yet an unanticipated evil immediately grew out of it, which was exciting the opposition to increased efforts, when they saw the association could not be brought under party influence. Though this in truth was no evil, as the sequel shows. Herewith I give the address which appeared in the journals of the 9th of June. It was written by Mr Dempster, Smiley, Hale, and Tillinghast acting as a committee, and compares favorably with any declaration of rights, or of independence, ever pronounced by an oppressed people:

"TO THE PEOPLE OF CALIFORNIA.

"The Committee of Vigilance, placed in the position they now occupy by the voice and countenance of the vast majority of their fellow-citizens, as executors of their will, desire to define the necessity which has forced this people into their present organization.

"Great public emergencies demand prompt and vigorous remedies. The people, long suffering under an organized despotism which has invaded their liberties, squandered their property, usurped their offices of trust and emolument, endangered their lives, prevented the expression of their will through the ballot-box, and corrupted the channels of justice, have now arisen in virtue of their inherent right and power. All political, religious, and sectional differences and issues have given way to the paramount necessity of a thorough and fundamental reform and purification of the social and political body. The voice of a whole people has demanded union and organization as the only means of making our laws effective, and regaining the rights of free speech, free vote, and public safety. For years they have patiently waited and striven, in a peaceable manner, and in accordance with the forms of law, to reform the abuses which have made our city a byword, fraud and violence have foiled every effort, and the laws to which the people looked for protection, while distorted and rendered effete in practice, so as to shield the vile, have been used as a powerful engine to fasten upon us tyranny and misrule.

"As republicans we looked to the ballot-box as our safeguard and sure remedy. But so effectually and so long was its voice smothered, the votes deposited in it by freemen so entirely outnumbered by ballots thrust in through fraud at midnight, or nullified by the false counts of judges and inspectors of elections at noon-day, that many doubted whether the majority of the people were not utterly corrupt. Organized gangs of bad men, of all political parties, or who assumed any particular creed from mercenary and corrupt motives, have parcelled out our offices among themselves, or sold them to the highest bidders; have provided themselves with convenient tools to obey their nod, as clerks, inspectors, and judges of election; have employed bullies and professional fighters to destroy tally-lists by force and prevent peaceable citizens from ascertaining in a lawful manner the true number of votes polled at our elections; and have used cunningly contrived

ballot-boxes, with false sides and bottoms, so prepared that by means of a spring or slide, spurious tickets, concealed there previous to the election, could be mingled with genuine votes. Of all this we have the most irrefragable proofs. Felons from other lands and states, and unconvicted criminals equally as bad, have thus controlled public funds and property, and have often amassed sudden fortunes without having done an honest day's work with head or hands. Thus the fair inheritance of our city has been embezzled and squandered—our streets and wharves are in ruins, and the miserable entailment of an enormous debt will bequeath sorrow and poverty to another generation. The jury-box has been tampered with, and our jury trials have been made to shield the hundreds of murderers whose red hands have cemented this tyranny, and silenced with the bowie-knife and the pistol, not only the free voice of an indignant press, but the shuddering rebuke of the outraged citizen.

"To our shame be it said that the inhabitants of distant lands already know that corrupt men in office, as well as gamblers, shoulder-strikers, and other vile tools of unscrupulous leaders, beat, maim, and shoot down with impunity, as well peaceable and unoffending citizens, as those earnest reformers who, at the known hazard of their lives, and with singleness of heart, have sought, in a lawful manner, to thwart schemes of public plunder or to awaken investigation. Embodied in the principles of republican governments are the truths that the majority should rule, and that when corrupt officials, who have fraudulently seized the reins of authority, designedly thwart the execution of the laws and avert punishment from the notoriously guilty, the power they usurp reverts back to the people from whom it was wrested. Realizing these truths, and confident that they were carrying out the will of the vast majority of the citizens of this county, the Committee of Vigilance, under a solemn sense of the responsibility that rested upon them, have calmly and dispassionately weighed the evidences before them, and decreed the death of some and the banishment of others who by their crimes and villainies had stained our fair land. With those that were banished this comparatively moderate punishment was chosen, not because ignominious death was not deserved, but that the error, if any, might surely be upon the side of mercy to the criminal. There are others scarcely less guilty, against whom the same punishment has been decreed, but they have been allowed further time to arrange for their final departure, and with the hope that permission to depart voluntarily might induce repentance, and repentance amendment, they have been suffered to choose within certain limits their own time and method of going.

"Thus far, and throughout their arduous duties, they have been, and will be guided by the most conscientious convictions of imperative duty; and they earnestly hope that in endeavoring to mete out merciful justice to the guilty, their counsels may be so guided by that Power before whose tribunal we shall all stand, that in the vicissitudes of after life, amid the calm reflections of old age and in the clear view of dying conscience, there may be found nothing we would regret or wish to change. We have no friends to reward, no enemies to punish, no private ends to accomplish. Our single heartfelt aim is the public good; the purging, from our community, of those abandoned char-

acters whose actions have been evil continually, and have finally forced upon us the efforts we are now making. We have no favoritism as a body, nor shall there be evinced, in any of our acts, either partiality for or prejudice against any race, sect, or party. While thus far we have not discovered on the part of our constituents any indications of lack of confidence, and have no reason to doubt that the great majority of the inhabitants of the county endorse our acts, and desire us to continue the work of weeding out the irreclaimable characters from the community, we have, with deep regret, seen that some of the state authorities have felt it their duty to organize a force to resist us. It is not impossible for us to realize, that not only those who have sought place with a view to public plunder, but also those gentlemen who, in accepting offices to which they were honestly elected, have sworn to support the laws of the state of California, find it difficult to reconcile their supposed duties with acquiescence in the acts of the Committee of Vigilance, since they do not reflect that perhaps more than three fourths of the people of the entire state sympathize with and endorse our efforts, and as that all law emanates from the people, so that, when the laws thus enacted are not executed, the power returns to the people, and is theirs whenever they may choose to exercise it.

"These gentlemen would not have hesitated to acknowledge the self-evident truth, had the people chosen to make their present movement a complete revolution, recalled all the power they had delegated, and reissued it to new agents, under new forms. Now, because the people have not seen fit to resume all the powers they have confided to executive or legislative officers, it certainly does not follow that they cannot, in the exercise of their inherent sovereign power, withdraw from corrupt and unfaithful servants the authority they have used to thwart the ends of justice. Those officers whose mistaken sense of duty leads them to array themselves against the determined action of the people, whose servants they have become, may be respected, while their errors may be regretted; but none can envy the future reflections of that man who, whether in the heat of malignant passion, or with the vain hope of preserving by violence a position obtained through fraud and bribery, seeks under the color of law to enlist the outcasts of society as a hireling soldiery in the service of the state, or urges criminals, by hopes of plunder, to continue at the cost of civil war, the reign of ballot-box stuffers, suborners of witnesses, and tamperers with the jury-box.

"The Committee of Vigilance believe that the people have intrusted to them the duty of gathering evidence, and, after due trial, expelling from the community those ruffians and assassins who have so long outraged the peace and good order of society, violated the ballot-box, overridden law, and thwarted justice. Beyond the duties incident to this, we do not desire to interfere with the details of government. We have spared and shall spare no effort to avoid bloodshed or civil war; but undeterred by threats or opposing organizations, shall continue peaceably if we can, forcibly if we must, this work of reform, to which we have pledged our lives, our fortunes, and our sacred honor. Our labors have been arduous, our deliberations have been cautious, our determinations firm, our counsels prudent, our motives pure; and while regretting the imperious necessity which called us into action, we

are anxious that this necessity should exist no longer; and when our labors shall have been accomplished, when the community shall be freed from the evils it has so long endured; when we have insured to our citizens an honest and vigorous protection of their rights, then the Committee of Vigilance will find great pleasure in resigning their power into the hands of the people, from whom it was received.

"Published by order of the Committee.

"No. 33, *Secretary.*"

[Seal of the Committee.]

CHAPTER XVIII.

CONCURRENT EVENTS.

Gute Menschen können sich leichter in schlimme hineindenken, als diese in jene.

Jean Paul Richter.

The actual leader of the politico-ruffian element during the crisis of 1856, as well as of the more vulgar slung-shot and burglar element of 1851, was David C. Broderick, whose monument, raised by admiring sympathizers, stands to-day *in perpetuam rei memoriam* of nobody knows what. Others have been firemen, bullies, senators, and duellists; others have foolishly fought and have been slain for their folly. Piling marble upon lifeless bones never yet made noble the deeds of tyrant or demagogue.

The 31st of May the grand marshal reported that David Broderick, Alexander Campbell, Austin Smith, and others of the law party had been detected examining the Committee rooms in the rear of the vigilant premises from the windows of Mills and Vantine's store.

The same day the National Guards held a meeting to express their sentiments respecting a call made on them to oppose the Vigilance Committee. The captain affirmed that he was ready to obey the authorities, but the members of the company to a man agreed that they would resign and join the Committee sooner than oppose it.

The position assumed by Sherman and others, military men and federal and state office-holders, was no expression of their true sentiments. Hirelings of the government, to be consistent, must support the gov-

ernment. I am uncharitable enough to believe that there was little real honesty of opinion or purpose among them. Where interest has a voice the man himself knows not if he be honest.

Nearly a fortnight had elapsed since the hanging of Casey and Cora before the law and order party made a pronounced demonstration. Then upon the 2d of June under the shadow of the liberty-pole they met to raise the cry of persecution and bandy the state catch-words of liberty, constitution, habeas corpus, and trial by jury. There were many men of ability in the ranks of law and order. Men of ability need bread and butter as well as fools, and indeed it requires more ability to raise money by any vile indirection than in the honest way.

Colonel Baker was there and spoke well. The colonel always spoke well. He had a gift that way. Speaking was his business; he made his living by it. Little difference it made to him what was to be spoken, he could speak it all the same. When he talked, Judas was Peter, and Peter, Judas. Cora liked to hear him, though ten thousand dollars was a good deal to pay for killing one man. But Belle Cora's purse was deep and Richardson's murderer held the strings. "See Cora's defender!" cried the crowd. "Ed. Baker, Cora, and ten thousand dollars! Out of that, you old reprobate!"

This Law and Murder mass-meeting, as the rabble christened it, was held on the plaza at two o'clock the day before mentioned. Although the executive committee had given orders that the meeting should not be molested, and had caused to be exposed placards bearing the inscriptions: "Members of the Vigilance Committee, order must be maintained," "Friends of the Vigilance Committee come out of the square," yet upon the ground the confusion was so great that but little was effected. Attempts to address the meeting were made by Alexander Campbell, James Wade, Calhoun Benham, Bronson, Baker, and others, but the

crowds along Brenham place and on the house-tops by their shouts and ribald jests so interrupted them they were scarcely able to proceed. With the following resolution the meeting adjourned:

"*Resolved*, That it is the sense of this meeting that the reign of law and order should be resumed in the city of San Francisco, and that a termination should be put to the present excitement, and that every free American citizen be remitted to those inalienable rights which a free constitution and equal laws assume to them."

"I once thought," piteously declaimed Judge Campbell on this occasion, "that I was the free citizen of a free country, but recent occurrences have convinced me that I am a slave, a slave, gentlemen, more a slave than any on southern plantation, for they know their master, but I know not mine!"

"Oh, yes yer do," a voice in heavy baritone was heard to say. "You know your masters as well as anybody—two of them were hung the other day."

While Calhoun Benham was denouncing the governor and deploring the condition of the city which had been seized by a mob, robbed of its sacred rights and its liberties, stricken down by a band of conspirators, a large Colt's revolver in a belt round his waist was under his coat unwittingly displayed by him.

"See there's a pretty law and order man!" cried one.

"Yes," exclaimed another; "he is violating the law now."

"I carry this weapon," replied the speaker, "not as an instrument to overthrow law, but as one to uphold and protect law."

I doubt if the orator, able though he was, realized the profoundness of his sophistry. He broke the law to uphold the law; of what more could their worst enemy have accused the Vigilance Committee?

The storm of Monday was followed by a dead calm. Tuesday, the 3d of June, the day between the law and order demonstration on the plaza and the publication of the general orders and proclamation, was remarkable for its prevailing stillness.

"The right guaranteed in the writ of habeas corpus" the *Herald* regarded "as of all the acts of that body the most indefensible in its committal, and the most dangerous and detrimental in its consequences. For centuries wherever the English language is spoken, the infringement of this right has been looked upon as the deadliest of all crimes that tyranny can perpetuate against the liberties of a free people." And so the vengeance of offended heaven was to fall on San Francisco because the Vigilance Committee would not give Billy Mulligan to the sheriff. But I suppose this journal had readers who would have accepted such statements as true; most journals have believers in whatever they choose to print, no matter how nonsensical. On the face of it an assertion like this, "The suspension of this writ by the Committee of Vigilance is a mortal stab at the freedom of this people," is too false and absurd to merit notice except as a specimen of the morbid law and order literature of the time.

The following burst of empty eloquence, a part of the same editorial, marks the malignant man of genius:

"But the worst feature in this organized defiance of the ministers of the law is the admixture of an alien element in the ranks of the rebellious band. American citizens may bear a yoke imposed by Americans; a detestation of bloodshed and a desire to avoid the horrors of an internecine war may make men tolerate many wrongs at the hands of their fellow-citizens; but the whole spirit of our people, every instinct of their nature, every principle instilled in them in childhood revolts against the humiliation of wearing chains forged by men who owe no allegiance to the government, and who have no sympathy with the institutions of the land. Gentlemen of the Committee, in this you have made a fatal mistake. When on Saturday evening a sworn officer of the law was resisted in the performance of his duty and repulsed with bayonets from your portals, and when in anticipation of some danger your entire force was called out, your guard was doubled, your whole army was displayed for the purpose of overawing the citizens; the organs of your despotism next morning proclaimed to the world with approbatory mention that the French battalion had charge of the guns. They proclaimed to the nation the sad tale that a mandate from the highest officer in the state, the judge of the supreme court, was forcibly resisted with guns manned by aliens. We have all read how at the dawning of this great republic a vicious and tyrannical monarch, by a sordid bargain, employed an army of Hessian bayonets to crush out the freedom of a people struggling to independence. Gentlemen of the Commit-

tee, has your action furnished no parallel for this great historical crime? Have you not reproduced that act of turpitude of an inglorious despot, an act which, more than any other sin committed by George the Third against our people, has ever since rankled bitterly in the memories of the American nation?"

The editor who wrote thus, who filled his columns with rodomontade, with windy hibernicisms and fallacious analogies, feels at every line that he is on the wrong side. Compare the hired Hessians of the revolution with the Americanized men of France and Germany who paid for the privilege of joining the great San Francisco crusade against crime by contributions of time or money, as did indeed every member of the Committee. Gibberish!

The baptist clergyman, Mr Bryerly, touched the nerve of this issue between the people and the authorities when he let fly from the pulpit the following, the Sunday after the shooting of King:

"Terrible as our condition is and great as is the excitement, see to it so far as your acts or your influence are concerned, that you countenance neither directly nor indirectly any act above law or contrary to law until it is certain that its performance has become absolutely and beyond doubt indispensable to the securing of the ends of justice. If by legally constituted means the ends of right and justice can be reached and men attempt to reach them by other means and loss of life or other injury thereby results, God and the civilized world will hold the perpetrators responsible for these results. A most solemn responsibility rests upon you and those associated with you, and in the sacred names of God, justice, and humanity I charge you, neither countenance any act that shall peril life, nor in appearance even seem to set law at defiance, unless interests higher than all legal forms and a claim more imperative than your own existence shall make the act a necessity." Thus pondered every man of that executive committee before he subscribed his name, his honor, and his life to the cause. And their conclusion was right; interests higher than law

and claims more imperative than life called aloud for action.

The effect of the proclamation was to strengthen both sides. Opinion hitherto only pronounced, now took the form of action. Those who sympathized with that side joined the ranks of law and order; of the remainder of the community some, angry at the unwarrantable interference of the executive, enrolled themselves members of the Vigilance Committee. Others feeling driven by the proclamation to the adoption of some course, took sides, some joining one party and some the other.

Says the Sacramento *Union* of June 4th upon the subject: "If by ordering out the militia of the state to assist Judge Terry to serve his writ of habeas corpus a collision follow between the military and the people in which the life of one good citizen is sacrificed, the state authorities will regret it as long as they live. More than this, their names will be execrated by the people, or we are greatly in fault. An attempt to force the people at the point of the bayonet cannot succeed. Ours is not a government founded upon force; it rests upon public opinion and the will of the people."

The night of the 4th passed quietly. Horsemen, solitary and in couples, made the rounds of the city; four men with bayonets guarded the door of the Committee rooms and at short intervals the large guard within was relieved.

The law and order party affected to rejoice greatly over the manner in which the call of the governor was answered. "A number of companies," writes the *Herald's* editor the 5th of June, "had made up their muster-roll before two o'clock this morning. A number of others have nearly completed their organization. By to-night there will be fully three thousand men enrolled. The gallant and order-loving sons of San Joaquin, the mountain men of Sierra, of Yuba, of El Dorado, of Placer, and of Mariposa, are hastening

joyously and cheerily to the defense of the constitution. By Saturday night there will be in this city a force of ten thousand brave and loyal men."

It was claimed that between fifteen and eighteen hundred men were enrolled on the side of the authorities on the 4th of June, though not more than sixty names were handed in to the quartermaster-general. At Benicia, when Johnson found that no arms could be obtained from General Wool, he threatened to bring down twenty thousand miners to destroy San Francisco; but Sherman suggested that perhaps the miners might take the opposite view of affairs.

Now, said the men of authority *jure divino*, now we shall see what we shall see. Hitherto although the men of Belial have acted against the authorities of the city they have not persisted, being under the ban of the state executive. We shall see how this political excommunication sits upon them, how the members will act, knowing that every day they are living in open violation of the laws of their country and laying themselves liable to the same penalties which they are endeavoring to inflict on others. Henceforth there is no question as to the attitude of the Vigilance Committee. Every act now, as an armed organization, is an act in open rebellion against the commonwealth.

All blame for the consequences was, as a matter of course, thrown upon the Committee. "We can scarcely imagine any criminality so utterly fiendish," they cried with hands in holy horror uplifted, "as of malice aforethought, with all the deplorable consequences before their eyes, to involve this city in the frightful scenes of carnage and devastation, which must result from a perseverance in the present course of the Committee. We cannot believe that men in their proper senses, if indeed they be in their proper senses, can deliberately lend themselves to the perpetration of such a frightful crime. To dream that they can succeed is perfectly idle. We beg them to consider this, that the governor's proclamation once

issued it is impossible for the state to recede. The entire force of the state must be called out to suppress the insurrection, and even if that should be insufficient the federal government is bound to lend its assistance. Are the members of the Committee aware what crime they are committing since the issuance of the governor's proclamation? They are guilty of treason; and for those found fighting with arms in their hands against the constituted authorities the punishment is death by the halter. Even the most sanguinary among the members have not, we presume, any ambition that the crown of martyrdom shall descend upon their heads after that fashion."

With all their legal lore, their pugilistic ground and lofty tumbling, their skill in blood-letting, and their chivalrous devotion to their sacred shadow, the law and order opposition was a series of blunders from beginning to end. How marked the contrast between the men and the principles involved, their plans, and the execution! One passionless, determined, efficient; the other petulant, wavering, weak.

The following extract from a communication to the *Bulletin* of June 6th points to a phase of the movement unnoticed hitherto by journalists, namely, the fatal consequences of hesitation or surrender—although I do not agree with the writer if he means to assert that revolution was the duty or purpose of the Committee. They may have placed themselves in the position and incurred the penalties of revolutionists, but to revolutionize the government was no part of their purpose. "The Executive of the Vigilance Committee" says this writer, "have a great work before them; it is in a revolution of the official power of the state. The right of revolution is an inherent right. We are in a condition of revolution; we have as a body placed our necks in the halter, and if we stop short of changing the administration of the laws from the hands of corrupt and inefficient men, then we voluntarily place ourselves on untenable ground. The

existing revolution is right or wrong. If right, it must be effective and complete; if wrong, we are subjects of punishment. The question must be placed upon the broad ground of the right of revolution, and not stop short of a connection with cause and effect. We cannot recognize the power now in the hands of corrupt and inefficient men. If we do, then our own action being legally wrong, we are without moral power to sustain us. This conclusion is self-evident, and at a glance presents to the mind's eye the magnitude of the questions involved in the existence of an *imperium in imperio*. The people provisionally, or the corrupt office-holder must rule. It is folly to attempt to dodge the question. We have arrived at that point of action and we must meet the question boldly as men and patriots."

Courts of law were in bad repute in those days. Venality and corruption sat upon the bench in the form of duelling, drinking, fist-fighting, and licentious judges. Where the people looked for justice they found too often jokes and jeers. It was not uncommon to see a judge appear upon the bench in a state of intoxication, and make no scruple to attack with fist, cane, or revolver any who offended him. Two prominent magistrates bore the significant sobriquets of Mammon and Gammon. The universal absence of restraint and indifference to conventionalisms were as conspicuously apparent in the supreme court of the state as elsewhere. Justice Terry was bitterly opposed to the Vigilance Committee, and the Vigilance Committee did not admire Justice Terry. On both sides was present a tantalizing fear engendering courage. It was unwise in Terry, one would think, to issue a writ of habeas corpus to be served on Mulligan. It was unwise in the governor, in the then excited state of feeling, to attempt to press matters to an issue by calling upon the militia to assist in serving the writ. It was unwise in General Kibbe, a state military officer, to demand the two cannon claimed by the state then in

the possession of the Committee for the purpose of directing them against the people. All this was unwise even if backed by sound policy, because these men had not the power to execute their threats, and the people knew it, knew that if the politicians persisted there would be blood spilt needlessly; and that would not be all, for if San Francisco was attacked such a whirlwind of excitement would be created throughout the state as would sweep every United States soldier into the sea. General Wool better understood the position, pregnant to him as it was with delicacy and responsibility.

Chief-justice Murray left Sacramento suddenly on the 11th of June, his friends saying that he had gone in search of a silver mine; others, that the publication of the Committee of Vigilance manifesto and the free comments of the press upon his manner of life hastened his departure.

There was another of the court judges, in illustration of whose character I will cite one incident which I find in a daily journal:

"On the night of February 17, 1854, James P. Casey, William Lewis, James Turner, Martin Gallagher, and others entered the Mercantile Hotel, brutally beat the inmates, destroyed property, and committed other depredations. The few police who interfered to preserve the peace were overpowered, roughly handled, and were obliged to seek reënforcements from the marshal's office, and after a severe and desperate struggle they succeeded in safely housing this band of desporadoes in the station-house. On the same night, and before they had become familiar with their quarters, the prisoners were released from confinement by a writ from one of the judges of the supreme court, and after carousing with the same corrupt judge in the bar-room of the Union Hotel, and receiving a public assurance from him that his friends should not be punished so long as he had the power to protect them, they returned to renew their fiendish

assault on the proprietors of the hotel. Next morning, after a hurried and unlawful hearing before this same model judge, they were discharged from custody, and the mayor of this city was insulted when he expressed his indignation at the shameless proceedings."

All this was more shocking of course to northern men of sober lives and puritanical principles than to citizens from the south, who were more accustomed, not only to the easier conduct and looser lives of the male portion of the community, whether brothers or husbands, but to the tenets of their political faith, and the mainsprings of actions underlying their social strata. Many virtues these same southern people possessed not found in so common a degree in the north, but representatives of the two sections had not long enough mingled here in California as yet to fully understand each other.

The letters following give us a little insight into the character of Alexander Wells, a justice of the supreme court of the state of California. The first is addressed, "Hon. Judge McGowan, at Madame Du Bon Court's Fashionable Residence, Pike street, San Francisco." This was then the most disreputable quarter in the city.

"San José, Sunday Morning, 5 A. M.

"My Dear Old Ned: —

"The matin bell of the convent is just ringing—I have two hours before the stage starts, and improve a portion of them to address you. French informed me that you and Vi. Turner were coming down here on Friday. I put some wine in cool, killed two of my fattest fowls, bought a watermelon that weighed nearly thirty pounds, had a good dinner prepared, drove out to Santa Clara to meet you, and lo, and behold—No McGowan or Turn Verein appeared. Yesterday again I drove down to Santa Clara to meet you, and although, like Manfred, I cried 'Appear! Appear!' no appearance was entered.

"And now, you rusty old broken-down, hack-horse, spavined, wind-galled politician—you infernal old schemer—you dreadful and to be dreaded shoulder-striker—you melter of wax (candles)—you stuffer of ballot-boxes—you, who reside at a French boarding-house of equivocal character—you luxurious dog who lives on the fat of the land, and never said gruel once—you ex-member of the judiciary department who exercised admiralty jurisdiction—I say unto you 'roll your bones,' for the fatted calf shall not be killed again for you or Vi. Turner, nary time, if I may be allowed to indulge in the classic language of Pike County.

"I want to come to San Francisco but am afraid to meet our boss—How is he? Of course he chafes and worries, and 'sweats under the burthens of this weary life;' but I think that the prospect before him will brighten when the smoke of this last battle has cleared away. They say that the darkest hour of night is just before day. Our friend will succeed eventually.

"Did we not do well in Santa Clara? Last year the whigs had 680 majority, and we beat them this time on a majority of our candidates over 600. We should and could have elected the other assembly man (Senter), but his own township went against him by default. I drove down to his precinct early in the morning, and they told me it was alright; but at night over forty votes in his neighborhood had not been polled. He made no effort himself, and as it was, was only beaten nineteen votes. A gallon of whiskey and a four-horse wagon would have secured them for him, and him for us. So it is—how slight is the thread upon which hangs the destiny of man!

"These Pike chaps won't vote till they get their drink. One of 'em said to me, 'I haint had my whiskey yet.'

"Kind regards to our mutual friend, and to all those who inquire about me in a friendly spirit. Ever yours truly, ALEX.

"P.S. Don't show this for Christ's sake! Amen."

The next is marked confidential:

"AUBURN, PLACER COUNTY, August 12, 1853.

"NED, MY DEAR FELLOW:—

"It is all right. The whole ticket will be elected by a large majority. Do not be surprised if I should run ahead of the ticket a long distance, and be not astonished if I receive 10,000 majority. The talk about disaffection is all nonsense; it is like the milk sickness in Ohio, when you get to a town or village, they will tell you 'we haven't got it here, but about ten miles off yonder they have it awful bad.' You get to the place 'off yonder' and *they* will tell you, 'we haven't it here, it's about ten miles further off,' and so it is as to the pretended disaffection. I have not been able to find any of it yet. My sincere belief is, that Bigler will run even with the ticket in every county except San Francisco. In El Dorado, Waldo will run far behind.

"I spoke at Gold Hill last night and at Auburn the night before, to-night at Grass Valley, etc. I shall speak every night from this day until the 22d. I shall visit Nevada, Yuba, Butte, Shasta and Klamath, before I return to San Francisco.

"Now, my dear Ned, keep this to yourself, do not begin to brag, but pick up all the little bets you can get on Bigler's election even. It is the surest thing in the world.

"Have you noticed that the *San Joaquin Republican*, a whig settler paper, has put up my name with Waldo's, and taken down Tod Robinson's? San Joaquin is a strong settler district, and it is a very populous county. Waldo turned up here yesterday and we corralled him. I have more good things to tell you when I return than ever you heard. Waldo is a B. B. F.

"Oh! oh! Raggery, oh!
What shall we do for poor Billy Waldo.

"Waldo told me this morning that he was satisfied that I should beat Tod Robinson badly. Information for which I did not have much need. Try and make a good county and charter ticket for God's sake.

"Show this to Welch. In haste, your old and faithful friend,

"ALEX. W——.

"Joe McCorkle sends his love."

The supreme judge, full of chivalrous law and order, wishes to fight a duel.

"MR CONNOR:—

"SIR: Having been informed by yourself that you are personally responsible for the articles published in the *Alta California*, reflecting upon my action in a recent case, may I hope that your responsibility shall answer unto me? And that you will authorize some friend on your behalf to meet some friend of mine to arrange the time and place where the misunderstanding can be properly explained or arranged.

"I am, very respectfully, yours,

"ALEX WELLS."

Evidently Ned had asked the supreme judge for money, whereupon the latter grows jovial and facetious:

"MY DEAR OLD MAN:

"I had the pleasure of receiving your note of yesterday. The next thing is, to set them all to work and make provision for a court-room and library. Rather than live in this bay horse town I will go to the one horse town. Here there is too great a PRESS-*ure* upon us. The *Times and Transcript* having skinned me on the *habeas corpus*, and pulled the wool over the eyes of certain friends of ours (as it is thought by the knowing ones on the other side), is now pitching into P. C. & Co. most unmercifully. Poor Joe has warm times. Well, as Meagher says, 'It is not always summer with the Kings!' Cook sailed yesterday. I trust our dinner won't be cold to-morrow in consequence thereof; but hope all is Wright. Is there any way to get even? Remind Wilkes that Purdy (St G., etc.) wants authority upon this parliamentary question: 'Can the Senate, while considering a Bill, dispose of the whole subject-matter by an indefinite postponement, when such Bill does not include the whole subject-matter?' They may postpone the bill, but not the matter. See *Jefferson's Manual; Reports of Discussions on Parliamentary Law in House of Delegates of Virginia; Debates in Congress; Minutes of debate and decisions in English House of Commons.* The position is sound. Who will deny it? or, rather, let me ask, Who will sustain it? If there is any one good parliamentary lawyer in either House he or they can demonstrate the correctness of this position. But you don't want law. The reason for it will show that a SNAP judgment upon a Bill cannot reach the whole subject-matter! Is there not an intelligent lawyer or speaker in the House? If there is let him show these points; which are unquestionably

sound. I have suggested to Wilkes, Casserly, Hager, and Field. Probably Field would do best if the others are engaged so much as to be enabled to devote their whole time to it. Would to God that I were foot-loose and could take a hand in myself. But you remember Hood's lines:

'When both legs were shot off,
He then laid down his arms!'

But do not be discouraged. It MAY be all right yet! TRUE-itt is, we are in a PECK of trouble, and the GRUEL is very thin, but with the help of the *Lord*, if we are all well *Garrisoned*, and no *Noble Romans* about, we may be enabled to PIERCE the centre of the enemies' columns.

"Don't, for mercy's sake, go and show this damn nonsense to any of your friends.

"Bless you, old man! If I had any money to send to you by way of loan, to relieve you from the distresses of which you complain, believe me I would send it to you at once; but I am bankrupt in purse and credit, and, alas! in heart too!

"Sam Bell wrote to me to say that no appropriation had yet been made. Sam is a good fellow, but if any more such letters are sent, and I can't get any money, I shall cease my laborious efforts to accomplish myself in Literature and '*Belle's Lettres.*' Excuse all this. I am in a happy humor, and love to discourse in my sober moments with such pious men as yourself.

"Wife and child all well. Myself in feeble health, but good spirits.

"ALEX. W——."

The chief-justice of the supreme court himself hobnobs with Ned:

"NEW YORK, June 19, 1853.

"DEAR NED:

"I have rec'd your letters and have answered you, although you write as though you had not heard from me. I had intended to leave here to-morrow, but arrived too late to procure a ticket in the steamer; which I regret, as I am very sick of the white settlements. My health has improved, and I am anxious to get back to God's country. You don't know how disgusted I am. I shall leave positively on the 5th. Bill is in Philadelphia at your wife's, and I shall call before my return. See Weller, Gwinn, Latham, and McDougall about your boy before they leave. They can do it. Don't neglect it; you owe it to him. My regards to all. Yours,

"MURRAY."

The Vigilance Committee they said were guilty of treason, murder, insurrection, kidnapping, accessaries in murder, forcibly obstructing officers of the law, of misdemeanor, and liable to individuals for false imprisonment. One would think it needless to reiterate so long a catalogue of crime, for if guilty of the first, as alleged, that were sufficient.

On Friday the 6th of June matters assumed a more warlike aspect. The contending factions were both busily engaged all day in preparing for the threatened contest. Recruiting on both sides was active, but by far the greater number joined the vigilant ranks, which were now swelled to about six thousand fighting men. The law and order party claimed in the morning to have three thousand enrolled, and that their numbers by evening would be increased to ten thousand; but on searching the facts in the case I am unable to find more than about six hundred men. Sherman himself claimed but eight hundred. Fort Vigilance, as the head-quarters on Sacramento street was now called, was strongly fortified and every precaution taken against sudden attack. A thirty-two pounder was moved up from North Point and planted in front of the premises, with its ugly-looking muzzle pointing up the street. Two cases of muskets, the property of the Wallace Guard, were found in the cellar of a saloon and seized by order of the Committee. In the evening the grand marshal assembled his forces for instructions and drill, and the seat of war presented a very animated appearance. Thousands of spectators gathered in the streets watching the preparations with extraordinary interest. No demonstrations, however, were made by the opposing party. A strong guard was detailed for night service, and quiet at length settled on the city.

Just at this time Sam White, a gambler, shot William Flory, police or sheriff's officer at Sacramento; and a murder at Coloma, committed under aggravating circumstances, was announced. Reports were flying over the city the afternoon of June 9th to the effect that committees of vigilance in these places had seized and hanged the criminals, and that they were ready at a moment's notice to march to the assistance of San Francisco. This together with the news from Washington of the villainous murder committed by

Congressman Herbert, of whom more hereafter, continued to keep excitement up to a feverish pitch. Although there was comparatively little surface demonstration and still less bloodshed there was an intense moral struggle going on, a mortal combat for the supremacy between good and evil. One or the other must be killed, and the Vigilance Committee were determined it should not be the former.

Throughout the whole excitement and up to this time, there had been many citizens who, though favoring the Vigilance Committee, had never joined. On the 11th of June a public meeting was held at the auction-rooms of John Middleton on Montgomery street, for the purpose of taking steps to organize a number of independent companies, which should hold themselves in readiness to aid the Vigilance Committee should circumstances require it. D. O. Shattuck took the chair, and E. M. Earle, W. A. Woodworth, L. Maynard, Abel Guy, Daniel Gibb, and others were nominated to draft resolutions. These resolutions condemnatory of the governor's action and recommending the Committee to the confidence of the people were submitted to a large and enthusiastic meeting the following evening, and adopted.

This association, though hybrid in its character, added strength to the vigilant party. Yet I can but feel that the action of these citizens would have been more generous had it been taken earlier and had it assumed a more beneficial shape. If one party was right and the other wrong, why not join the right party early and heartily? I see two reasons for this tardy and independent action. First, there were those, lawyers and officials, who felt prohibited by their oath of office against joining an insurrectionary movement, yet their scruples did not prevent their associating and saying: Though we are not insurrectionists, we will be if necessary; though we may not break our oath, yet we will if the governor persists. Secondly, there are always those, careful, conservative

men, who not only like to be on the winning side, but pride themselves in having their names enrolled high and prominent on that side. It was by no means certain at the outset which would be the successful party. If General Wool, for example, had lent the governor his aid the consequences would have been most serious. The members of the Vigilance Committee might be called upon to lay down their lives, might be subjected to harassing litigation, might be deprived of property and citizenship. In the eyes of the law they were guilty of treason, and if they failed they would be punished. By this time it was quite sure they would succeed. Right and might were with them. And that was just the sort of honor these conservatives coveted. Nor would I detract from them one iota of merited praise. Give them their penny though they came in at the eleventh hour; but let not their names be mentioned beside that noble band who threw into the cause themselves and all their possessions, boldly cut loose all means of retreat, and bore the burden and heat of the day.

A great demonstration was made by the people of San Francisco in front of the Oriental Hotel on the 14th of June. Several thousand were present and were addressed by a number of speakers. "The Vigilance Committee," they said, "was strong, but the people should support it." It would seem that it took these speakers just one month to find that out. "No half-measures must be pursued," they cried. What had been the measure of their measures hitherto? But I will not cavil. The people liked it, saw no Irishism about it, cheered lustily, and went home feeling, every man of them, a patriot. This was an inflation of the auction-room movement instituted three days previous. Harmless, but very safe.

"No revolution other than a moral one," says the Sacramento *Union* of the 12th, "can be produced in this state, unless the commander-in-chief gives his order to fire upon the citizens of San Francisco.

Should this fatal order be given such a storm of revolution would sweep over the state as never has been witnessed in these United States. In its irresistible progress it would not leave so much as a vestige of the present state government and state officers. If no order of that bloody character is issued, if the present military enrolment is discontinued, if the governor will suspend or revoke his proclamation as he may do legally and honorably—for it is always honorable to correct an error—the waves of public commotion will subside and civil war with all its horrors will be avoided."

To a peace committee of the citizens of Sacramento who waited on the governor the 13th of June with a petition signed by two thousand persons asking the governor to withdraw his proclamation, his excellency blandly gave the assurance that he would postpone the attack on the Vigilance Committee to the latest possible moment. Considerate, very. "See our citizen soldiery," Johnson and Sherman might cry, "invisible in war, invincible in peace!"

Then the good citizens of Sacramento attempted reconciliation between the state's offended majesty and the crime-fighters of San Francisco. After a long interview with the governor a deputation went down to the Bay on Sunday the 15th of June. They waited upon the executive committee and were entertained with the greatest respect, but no important results attended their efforts. The Sacramento Guard voluntarily disbanded rather than be ordered to help serve the writ of habeas corpus against the will of the San Franciscans. The people not alone of San Francisco but of the entire state were upon one side; the governor and a few fire-eating and inflated officials were on the other.

The men of order and of law complained bitterly of the invasion of their sacred household rights in the domiciliary visits which they accused the executive committee of having instituted in their search for criminals. They had so little to complain of that

they made the most of this alleged outrage. They were likewise in a morbid ill-humor from the success of the movement, their reason seemed befogged by the exhalations of passion and the lust of power, and as usual in advocates of a bad cause when beaten they made irony of legitimate argument by throwing dirt and calling hard names, mixed as a matter of course with more or less lies. Members of the Committee were deeply dyed villains, traitors, despots, and enemies of public peace. Casey and Cora whom they murdered were saints beside them. They had much to say about the persecution and the prohibition of free speech. Hear the San Francisco *Sun* rant upon the subject. I give it only as a specimen of how insane a man can be when beaten and angry. I would first mention that the executive committee had before this passed and published a resolution to the effect that no restrictions whatever should be put upon the free expression of opinion either by persons or by the press. The press was absolutely free, and none knew this better than the press itself. How should the press have been permitted to continue its torrent of abuse for weeks when by the uplifting of their finger the executive committee could in one moment have hurled it and its editors into the bay! Their own libertinism is the strongest testimony possible of their liberty. All the people did to call forth the bitter animosity of the political and chivalrous journals was the withdrawal of their advertisements by certain merchants, a thing one would think they had a right to do without calling down upon their heads such editorial scurrility as this:

"This is the freedom of the press in California! Let us hear no word of it! The press of Russia is as free at this moment as is the press of San Francisco with this exception and this only: There, the treasonous fulminator of public murder, the open contemner of the laws of his country, would be consigned to the knout; while here, they indict editorials on outlawry in general, and the union of mob violence and political fanaticism in particular, unharmed and unmolested. With a 'committee of highly respectable and wealthy citizens' at their back they fear no molestation, but can traduce the patriotic and vilify the institutions of their country to their hearts' content."

No one knew better that this was not true than the man who wrote it.

The same editorial turns and addresses to the Committee the following fearful prophecies which seem to have been written with perfect freedom, indeed with more freedom than decency:

"The brand of treason is upon you, and you can no more escape it than could Benedict Arnold in other days. As to the mercenary wretches who act as excusers through the press, the *Bulletins* that cry more blood; the namby-pamby *Altas* that have wriggled and wriggled out, until they have wriggled into your patronage, the so-called *Californias* that have fungus-like sprung from the putrefactions of the day, to fill the air with their noisome stench of treason, and the lesser fry of traitors of various vileness and calibre, they will have sunk beneath the indignation of reasserted right, of law, and of fealty to our common country. Their tory sheets may be preserved as specimens of the unpatriotic spirit of the times and as affording evidence of the trials and troubles through which the friends of their country are now passing."

Sound logic, truly; coolly and clearly put. He whom such will not convince is obdurate indeed. And this is a fair sample of the law and order editorials of the day. They were rank as murder, smelling to heaven.

Both parties were loud in deploring the causes which led to this unhappy issue; both were active and eloquent in harrowing the horrors of civil war, and each threw all the blame upon the other.

"Let them beware how they lay the city in ashes and fill our streets with the dead bodies of our citizens," said one.

"A fearful responsibility rests on their shoulders," sighed the other.

CHAPTER XIX.

SWIFT AND SILENT MECHANISM.

If there's a hole in a' your coats,
I rede ye tent it;
A chiel's amang ye takin' notes,
And, faith, he'll prent it.
Burns.

Scarcely was the Committee formed, when communications began to pour in from interior towns and delegations proffering sympathy and proposing alliance. Copies of the constitution were desired with authority to organize as branch or auxiliary associations. It speedily became evident that the Committee must soon decide whether it should be led beyond its original purpose and prepare to revolutionize the state, if the authorities organized a too formidable opposition, and after driving the existing officials from power to arrange for the election of their successors, who might perhaps be men of higher character or purer motives, or better able to secure the public welfare and administer justice.

The leaders quickly found that in grasping the reins and mounting the seat of power they had assumed unexpected responsibilities, and that time and events were whirling their car along untried paths and toward perils the very magnitude of which kindled a desire to grapple with their possibilities.

To all such advances the Committee returned a kind but firm refusal; and the brevity of the discussions upon these momentous issues was creditable to their foresight and patriotism. While some few

argued that in their novel situation it was unwise to refuse assistance which might soon prove vitally important, and while others were dazzled by the prospective glory of emancipating a whole state from misrule, and laying better foundations for what their enthusiasm pictured as an empire destined to rank among earth's proudest, and while yet others felt perhaps some temptation toward a policy which, if successful, as seemed to them probable, might almost by a single effort relieve them from both the personal and the pecuniary peril which all felt to be menacing, the wiser ones if attainable, would be an indescribable misfortune, weakening the nation's reverence for the institutions it had established, and setting a precedent toward those forcible revolutions which had unsettled and enfeebled our sister republics.

No, not revolution, but reform. Our government is God-given. If we were half as dutiful as our institutions are excellent, we would be the happiest and wisest people on earth. There shall be no rending asunder where we most admire; it is not our purpose to destroy but to sustain.

It required but one glimpse into the gulf over which these glittering phantoms had been hovering to convince the few who for an instant had been dazzled, that such *ignes fatui* could only be engendered by a principle of decay, and that they must continue their march in the comparatively narrow path of strictly local reform; resolute, not to be lured by any prize or shaken by any danger. Let all who would, organize and declare war on crime; but let each locality act for itself, and be responsible only to itself. Yet, while firmly avoiding entangling alliances, all might coöperate in sentiment and good-fellowship in joint prosecution of a noble work.

Two friends on the night of the 9th of July were sitting in the reading-room of the Rassette House discussing the doctrine of hell. Unable, as were not

the early fathers, to arrive at an agreement as to the nature, locality, and dimensions of this ancient and mysterious institution, they fell to fighting about it, as many a man and many a nation have done in time past. The battle began with fists and ended with pocket-knife stabbing, so that one or the other of them was likely soon to go to hell and see for himself what sort of a country it was. At length they were parted, and shortly after the one who used the knife fell into the hands of the vigilance police, which was hell indeed, who took him to the Committee rooms, but after due consultation the Executive concluded it was a matter more befitting the court than themselves. Hence he was turned over to the regular police. It was chronic crime alone the Committee cared to touch; cases upon which the ordinary medicine of law courts had no effect. Pugilistic electors, stabbing supreme judges, and political pistol-shooters, these were the game the vigilants hunted.

As in the former Committee, thousands of letters of a personal character, charging persons with misdemeanors, were received, written by men and women apparently under the impression that the Committee appeared in the rôle of some universal panacea, pain-killer, or patent medicine for the cure of every social evil. Even if accusations were both criminal and true it was no part of the Committee's intention to enter the arena of private quarrels, or to undertake in any wise to establish equity between men or to do any work which the courts could and would do.

Another feature of the association was the consideration for propriety and appearance with which everything was done. The humblest of them all having voluntarily and with no hope of reward come forward and written down his name in the service of society, felt himself a patriot equally with the highest, felt that he was setting an example, and that he would do it well. Let it not be forgotten that the rank and

file, those who promised obedience, were of the same stamp as their leaders, all honest, respectable men, and many of them as wealthy, cultivated, and able as any who sat on executive chairs.

It appears that during the first few days of the organization, liquors and cigars were ordered in and used in common, upon the theory characteristic of California, that a community unable or unwilling to provide these luxuries for its preservers was not worth the preserving. The 23d of May, however, the Committee thought better of it, or rather, they had not hitherto thought of it at all, for on that day they resolved, "that the cigars and liquors used up to this time by the executive committee be paid for by equal subscription by ourselves, and that hereafter each member shall furnish himself with such luxuries should he require them; so that this community cannot say that the Committee have spent their money uselessly."

The Executive were no less stringent in regulating their own followers than in guarding the city from the depredations of villains. There were many in the community who sympathized too strongly with the Committee, whose zeal ate up their judgment, who hovered upon the verge of mobocracy and would have fallen into that anarchical pit but for the steady grasp of vigilance upon them. "There seemed to be a great fear on the part of bankers, merchants, and newspaper men of mobs," says Mr Manrow, "and they sent frequently to the Committee, and we always sent word to them that if there was any anticipation of that kind we would send guards, and we frequently did so—posted guards to keep the people quiet. We had a large police force in our body and many detectives constantly on the watch. We knew all the time, through this force, what the law and order people and others on the outside were doing. I remember that one of the detectives called me out one night and said that he had been to a meeting of

the Broderick Engine Company, and they had passed a resolution to kill me on my way home. I knew at that stage of the game they would go after any one of the Committee. But they made no attack, and notwithstanding this resolution I rode up that night about twelve o'clock with my groom who came for me."

Neither the friends nor the enemies of the Committee supposed its work more than begun by the punishing of the assassins of Richardson and King. Thinking men fully realized that it was necessary to break in pieces the organized rings which by fraud and violence had attained official position in order the more effectually to plunder the public—rings composed of political thieves, differing only from the more manly ordinary thieves in stealing according to law and in making the law fit thieving rather than quarrel with it. It was necessary to punish or drive away the brutal instruments by which these rings had defeated the frequent efforts at reform made by good citizens.

Again on the 30th of May the board of delegates met to confirm or disapprove of what had been done. The testimony against Mulligan, Gallagher, Carr, Kearney, and others was read and the verdict of the Executive announced. The delegates signified their approbation. The case of Mr Edward Bulger was in like manner disposed of. The 2d of June the black list was taken up and John Crowe, Ira Cole, James Hennessey, J. W. Bagley, James Cusick, Terence Kelley, James Claughley, Jacob Retchit, William McGuire, Robert Cushing, and Michael Brannigan, were ordered to leave the state. John Cooney was warned to reform his ways, for the eyes of the Committee were upon him.

The trial of Duane was begun the 3d of June and concluded next day, resulting in a sentence of transportation. The following preamble and resolution are found upon the record: "Whereas, the evidence

brought us establishes conclusively that Charles P. Duane has for years been a disturber of the peace of this community by repeated assaults, often with deadly weapons, upon unoffending citizens, and by his interference with our elections; resolved, that he be sentenced to leave this state in such a manner as shall hereafter be determined, and warned never to return under penalty of death." The case of Brace the murderer, then in jail, and whose term of imprisonment expired the 5th of June, was referred to a committee. The black list was called up and conned every day.

Meanwhile Olney and his captains were active drilling the military. There were daily excitements sufficient to keep alive their interest, sudden calls which brought the forces out upon the street in martial order.

In view of the impending collision with the state authorities, the committee on military affairs, at a meeting held the 9th of June, proposed a reorganization of their forces which should embody the entire association, on the following plan: There should be formed three infantry regiments, composed of two battalions of four companies each; one battalion of artillery, one battalion of cavalry, and one French legion. The field officers to be for each regiment, one colonel, one lieutenant-colonel, and two majors; for the battalions of artillery and cavalry one major each; for the French legion one colonel and one lieutenant-colonel. The officers to be elected, the colonels and lieutenant-colonels by the executive committee, and the majors by the respective battalions. All were to be kept in readiness to march at a moment's notice at the order of the grand marshal. Present quarters were pronounced extremely insecure, being open to attack from Front and California street sewers, Commercial street, the rear alley, and also being commanded from every hill in the city, besides being weak in defence from

other causes. This committee then recommended immediate removal to more secure quarters, and suggested California street near Mason. No removal, however, was made, the executive trusting more in men than in walls.

There were some few accessions of horsemen to the vigilant guards on Tuesday the 10th of June. General drilling continued, but the feature of the day was the artillery practice on the street before the Committee rooms under the direction of F. D. Johns. The cannons were collected from various sources, some of them being ship's guns clumsily fastened to running-gear with ropes and chains, but for purposes of defence they would do effectual service. All the guns were to-day discharged, cleaned, and reloaded, and the cannon made ready for instant service. In the evening between two and three thousand were in arms, and a stroke of the vigilance bell would have placed as many more by their side. During the afternoon young America took the field in the form of sixty little boys, who assembled on Stockton street, and with striped pantaloons and sticks for swords and guns, marched down to Sacramento street, drew up in line of battle in front of Fort Vigilance, and demanded of the Committee that they should lay down their arms and disband or treat. Certain spectators, enjoying the sport, filled their pockets with nuts and candy, and in return the infant band offered to search for McGowan, or attack the law and order forces if permission was granted them. During the night rumors having reached the Committee of a threatened attack, a breastwork of sacks filled with sand was ordered thrown up in front of the rooms. Drays loaded with the sand-bags began to arrive about one o'clock in the morning of the 11th, and a fortification two hundred feet long, thirty feet wide, and five feet high, with embrasures at either end for cannon, was constructed. Behind this breastwork the artillery was placed in position so as to rake all approaches. The guns were

well manned, and sentinels stationed at every outpost. The night, however, passed quietly. Thus far the law and order forces comprised thirteen companies of from fifty to seventy-five men each. No serious fears were entertained by the Committee, but they determined never for a moment to be off their guard. Indeed, the time was rapidly passing in which it were possible for the governor's proclamation to be sustained. The constantly increasing strength of the Vigilance Committee gave their opponents little hope. Loud calls were made for officials to resign. One, Hampton North, city marshal, responded.

This same day the following report was handed the Executive by the committee on foreign affairs: "That the marshal has detailed from each company ten men who have their arms deposited at their respective places of residence, and who have orders in case of a general alarm to report to their commanding officer in two places, namely, in front of the Oriental Hotel, and in front of the Monumental Engine House." They suggested also that the members of the general committee be notified that the signal of recognition recommended in case of attack was a white ribbon placed in the top button-hole of the left lapel of the coat, the rallying cry in case of difficulty the word 'vigilants!' They also reported a secret depository of arms established in the third story of Messrs Arrington's store, and also in the store of J. W. Brittan. A plan for the protection of the building was also proposed, all of which were adopted.

Next meeting the Executive ordered all arms removed from head-quarters except five hundred muskets, fifty rifles, fifty shot-guns, and such cannon as could be used advantageously in case of attack, and that the remainder of the arms of the association be kept part in the hands of members and part in such private depositories as should be designated. This was to prevent the possibility of the entire capture of their arms in case Fort Vigilance was taken. Mr

Smiley offered his store as a rallying-point of the executive committee in case they were cut off from head-quarters in the coming anticipated difficulty.

While proclamations were thus being fulminated, and the military were being prepared to attempt the enforcement of the habeas corpus, the executive committee were quietly shipping from the country the culprits the law so itched to grasp.

A daring attempt was made to burn the Vigilance Committee building, between twelve and one o'clock Tuesday morning the 17th of June. Shavings placed in the rear of the Fulton Iron Works on Davis street between Sacramento and California streets were fired, but before the flames had made much progress they were discovered and extinguished by the vigilance guard.

The black list now occupied the chief attention of the Committee. The committee on evidence devoted their whole time to procuring testimony against odious and disreputable characters, which was sifted and arranged so as to present each in his true light before the tribunal. The accused were then put upon trial and opportunities offered them for rebuttal. The matter was determined and placed before the board of delegates. Finally to the prisoner was disclosed the sentence of his judges, and if convicted, the time of his departure was named, within which time his affairs here were to be settled. From time to time, by steamer and sailing-vessel, as opportunity offered, many thus convicted were shipped out of the country, while others were warned, often under seal, that the ever watchful eye was on them. In all this the greatest care was taken that no injustice should be done; at the same time proof needed not to be strictly legal in order to carry conviction.

I will cite the case of Cunningham as an example. Information convincing beyond peradventure was brought to the Committee that this man was bad, very bad, that he was a false coiner and a robber of the

dead under outrageous circumstances. The district attorney, who was asked to testify, declared that although he knew him to be guilty he could not convict him under the statute, because to do so he must have one of the identical counterfeit coins issued by him; it was the old-fashioned slug, or fifty-dollar piece. The Committee held the case under examination until they were thoroughly satisfied that the man was guilty, and then they banished him from the country.

This was the class of cases which the Committee made more particularly its own. New and legally provable cases they left to the law. More particularly did they decline taking cognizance of cases outside their locality, or what they determined as their jurisdiction—instance the matter of the second mate of the steamer *Golden Gate*. A delegation of passengers the 15th of June waited on the Committee with the request to seize the mate and execute justice on him, but they peremptorily declined taking any action in the matter. The Committee referred the delegation to the United States Commissioner, saying if the commissioner desired their aid they would give it him, but they would not otherwise interfere.

Attention was next turned to improper men in office. At the meeting of June 15th a committee of five was appointed to inquire into and report upon such county officers as should be invited to resign their positions; and also to report who and what power should fill those offices until next election, and whether appointments could be made satisfactory to the committee and to the community. A committee was also appointed to wait on the merchants with a petition for their signature to the president of the United States for the removal of United States Marshal McDuffie.

Another exodus of criminals occurred on Friday, the 20th of June, which was likewise a day of purgation for San Francisco. It was in all respects a busy

day within the walls of Fort Vigilance. Amidst the shipment of prisoners, new arrests, preparations for defence, examination into the conduct of city officials, and multitudinous other affairs, attention was drawn toward disbandment.

Two days before a special committee had been appointed to examine the business affairs of the association, and to report at what time it would be practicable for the general committee to adjourn. It was resolved by this committee and so reported to the Executive on the 20th that no new business be taken up after the 24th instant unless in extreme cases; that the utmost diligence be used to close up all business, and to have all verdicts, notices to leave, and sentences executed before the 3d day of July; that on the 4th day of July a full parade of all troops and of all members of the Committee of Vigilance shall take place under the direction of the grand marshal in conjunction with the president and the military committee, who were charged with all the necessary arrangements; that the executive committee give notice on the 4th of July that on and after the 5th of July the general committee will adjourn and that the executive committee and board of delegates continue to meet, and the general committee to hold themselves ready at all times to respond to the regular alarm-call of the Executive; that in adjourning the committee, they should give notice that the return of any persons who have received notice to leave or who have been sent out of the country by their orders should be sufficient cause for an immediate call for the assembling of the general committee for decisive action. This action was not kept secret; the notice of the 4th of July parade was given out formally and informally to the general body and to the community.

The fact is the committee sincerely desired to avoid collision with the authorities. They were not intimidated by threats, as their subsequent action shows. They were never stronger than now, and they knew

the opposition was not as strong as themselves. But as they deemed their work essentially finished they thought to hasten its close, rather than to prolong it unnecessarily in the face of the intense bitterness of feeling manifested by their opponents.

This, however, was not to be. The history of the Vigilance Committee was not destined to close here. While the hopes of the Committee were freely and publicly expressed, that the opposition would recognize their moderation and respond to their efforts to avoid the threatened conflict of arms, the next day the Committee were advised that the governor and General Boker were on their way to the city, one from Sacramento and the other from Stockton, each with military preparations, and that they would parade in the streets of San Francisco on the day following. General Howard, successor to General Sherman, was receiving government munitions from Benicia, so report ran, and men were standing ready to receive and use them. "This was not peace, but war," says Mr Coleman, "which we were trying to avert." There was but one thing to do, and that was to intercept those arms and bring them to head-quarters, and this the Committee set themselves at once to do.

Never had there arisen in any state an issue which aroused such bitter feelings in the breasts of the minority against the majority. From the first the cry of official incumbents and their party sympathizers was havoc, and let loose the dogs! They would butcher half the city if necessary to wreak their vengeance on mercenary pork and flour sellers who had dared to call in question the ability and integrity of gentlemen of the politico-pistol school. Nor did their all-absorbing thirst for revenge cease with the disbandment of the Committee. It galled their arrogant blood, it intensified their chivalrous hate to see with what consummate skill and dignified self-possession

these base-born *canaille* had so successfully achieved their noble purpose. For months afterward their journals rankled in their impotent rage. The national government, the state government, and the democratic party, they enlisted in their sympathy and against the Committee. Politicians and public menials they could command, but they were not the people.

As one observes, commenting upon the course pursued by the *Herald*: "History is ransacked for illustrations. Rome, France, Venice, the Holy Inquisition in their worst and bloodiest days, Draco; Robespierre were all innocent, and even Cerberus, the watch-dog of hell, is considered amiable when contrasted with the people of San Francisco."

As a rule the Committee were prayed for from pulpits. But a southern divine, subsequently mobbed in his church and expatriated for indulging too freely his opposition to the north in its war for the union, went somewhat out of his way as some thought in publishing in the Philadelphia *Presbyterian* two and a half columns denunciatory of the Vigilance Committee members, which organization included scarcely less than three fourths of his congregation. "In this elaborate epistle," says the *Bulletin* of October 1st, "the Vigilance Committee of this city is attacked in a manner that in our opinion is highly unbecoming in a minister of the gospel. The writer gives as one of the reasons for publishing his letter in Philadelphia, that he wishes to avoid 'local prejudices and momentary excitements,' having been 'told that I must pray for the Committee and preach in their behalf, and that if my sentiments against them were known I should lose my congregation.' Coming from one who claims to be impartial and unprejudiced and who affirms that his mission is to pour oil on the troubled waters, and not to create wrangling among his brethren, it must meet, as it merits, the severest condemnation of every Christian, or we have yet to learn in what Christianity consists." In answer to

which last clause of the quotation it has been suggested to me that in this instance Christianity consisted in—first, love of notoriety; second, love of sinners, the pistol and bowie-knife chivalry being regarded as chief; and lastly, love of formulas and fanatical dogmas. In this instance the zeal of the clergyman was rewarded by glorious martyrdom; he being hanged in effigy before his church the next Sunday and having the pleasure of a newspaper controversy for a few days thereafter, both of which he hugely enjoyed.

There were feuds and bitter animosities between parties, between individuals, and between friends and brothers; hate rankled in the breast of multitudes. Fostered by national prejudices, by partisan pride, and by individual interest, the conflict on either side assumed an intensity seldom seen. There is no hate like the hate of a brother; there is no war like civil war; and these men, hundreds of them on both sides, were ready to spill the last drop of blood before they would yield one jot.

But in the ever varying life and population of this most cosmopolitan of cities these infelicities were soon forgotten. In the after and more thoughtful consideration of the events and of the motives which engendered them, what appeared so strange to those on either side, what appeared so monstrous, so far removed from rectitude and good morals, was regarded with kinder and more charitable eyes, and the nobler hearted of both factions began to see some shadow of truth in the view taken by their opponents.

CHAPTER XX.

THE GOVERNOR INVOKES FEDERAL AID.

Pin a dishclout to his tail.
Swift.

Besides these active preparations at home, and failing to move to his purpose either the military or naval commandants of United States forces on the Pacific Coast, Mr Johnson appeals to Washington.

On the 19th of June, 1856, the governor wrote the president a full account of his troubles, and despatched his message by the hand of R. A. Thompson and F. Forman, who sailed by the steamer of the 20th instant. These gentlemen were to supplement the governor's appeal and furnish such detail as circumstances and their powers of graphic description could command. Their duties were defined in their commissions, that of Mr Thompson's reading as follows:

"State of California, Executive Department,
Sacramento, Cal., June 18, 1856.

"Sir: You are hereby deputed on behalf of the State of California to proceed by the most rapid means of coveyance to the city of Washington, and make application to the president of the United States for the use and services of such arms and ammunition, together with the aid of the naval and military forces of the United States, as may be required by the executive of this state in the suppression of the existing insurrection in the city of San Francisco; and also to perform generally such duties as may be deemed proper and necessary in the prosecution of such mission. In the performance of this duty you will be aided by Colonel F. Forman of this city, who is appointed by me to the performance of similar services. I will transmit by him the necessary papers relating to this subject. I regret to say the arrangements which it was believed could be perfected, whereby a sum of money

could be placed at your disposal for the expenses of the trip, have proved unsuccessful thus far, and reliance will have to be had on the faith and credit of the state for the repayment of your expenses, also for the value of the services to be rendered by both of you gentlemen. I will write you more fully my views to-morrow.

"J. NEELY JOHNSON, *Governor of California.*

"*Hon. R. Augustus Thompson, San Francisco, Cal.*"

Although the governor's letter is somewhat lengthy and repeats much that has already been written, I give it in full, deeming it important that every side of this subject should be laid before the reader with equal fairness. As a matter of course due allowance must be made for the *ex parte* statements of a man brimful of passion and never over-scrupulous as to his facts.

"EXECUTIVE DEPARTMENT,
SACRAMENTO CITY, CAL., June 19, 1856.

"SIR: In view of the existing condition of affairs in the city and county of San Francisco in this state, I am constrained to call upon the general government through the intervention of your excellency for aid and assistance in the enforcement of the laws of this state; and that you may better understand the propriety of readily granting such requests, I would beg leave to present a brief recital of events which have recently transpired and rendered necessary such application. As early as the 16th of May last an organization styling themselves the Vigilance Committee was formed in that city, secret in its character and to the uninitiated its purposes unknown, except as their subsequent acts have developed themselves. Although the presumption is that the organization had its origin in the events connected with the shooting of Mr James King by Casey on the 14th of the same month, apprehensions were entertained from the incendiary appeals of the press and the public excitement that an attempt would be made to attack the jail where Casey was confined, rescue him from the officers of the law, and deal out summary punishment to him; in fact an effort was made to do so by a mob, prior to this organization, but was resisted successfully. In the mean time the mayor had called on the military forces of the city, numbering some ten companies, for assistance; the sheriff did his utmost to obtain the aid of a *posse* capable of resisting such anticipated attack. It was found that the response in both cases was but limited; not more than fifty or sixty of the military could be depended on; companies disbanded, large numbers of them joined the Vigilance Committee, forcibly placed in the possession of that organization arms and accoutrements, including the only two pieces of artillery belonging to the state which had been issued to them as volunteer companies by the state, and not one in ten of those summoned by the sheriff would obey his call. It seemed as if a universal panic had seized upon the people, and the fear of this formidable organization impelled law-abiding and law-observing citizens gen-

erally to shrink from the responsibility resting on them as citizens owing to the constitution and laws of the state. On the 17th of this month, when it was manifest that neither a military nor a citizen force could be obtained in defending the jail, an armed body, estimated at three or four thousand persons, marched to the jail and demanded the delivery of two prisoners, Casey and Cora. The sheriff was powerless, the few men he had about him would have constituted no impediment in the way of these superior numbers, and resistance was useless; he was forced to give up the prisoners. A few days later this same body, from the windows of their place of meeting, hung the two men referred to. Furthermore they proceed to arrest various individuals, search the houses of many of the best citizens on the most frivolous and groundless pretext, establishing a system of espionage over the conversation and movements of reputable citizens, male or female, wholly unknown to the laws or usuages of a republican form of government. At length for one of the parties arrested by order of this self-constituted tribunal, on application being made to one of the judges of our supreme court, he issued a writ of habeas corpus. The sheriff was prevented by the resistance of this armed body of men from serving it; and a few days later the party for whom this writ was issued, in company with several other citizens forcibly transported beyond the state, by different modes of conveyance and to different places—report says China, Australia, and the Sandwich Islands. In the mean time one of the number they had arrested and whilst in their custody, learning his sentence of banishment from the country, rather than submit to it, committed suicide in the cell where they had confined him. On the 3d day of the present month I issued a proclamation, a copy of which I enclose in the form of a printed slip, declaring the county of San Francisco in a state of insurrection. To General Wool I had previously, in a personal interview, detailed the condition of affairs, of which matters he was fully informed otherwise. At such interview he unhesitatingly promised me, on the representation made him that we were almost wholly destitute of arms, and of ammunition we had none, to furnish on my requisition when we wanted them such arms and ammunition as we desired. Within one or two days after the issuance of my proclamation, of which I duly notified him, I made a recquisition on General Wool for certain arms and ammunition to be furnished Major-general W. T. Sherman, in command of the state troops at San Francisco, but to my great surprise he refused, alleging that he had no authority so to do in any case. To show him that the necessities of the case were of such an urgent character as should induce a compliance with my request, I communicated with him again, a copy of which letter, dated June 7th, I herewith enclose. To this his reply was as before, a peremptory refusal to furnish any part of such requisition. In the mean time the Vigilance Committee continued to arm themselves with muskets, a large quantity of which they early procured; guns of various calibre, ranging from six to thirty-two pounders, numbering near or about thirty pieces; erected fortifications in the central business portion of the city; proceeded with the trial and conviction of various persons; and now have in their custody several citizens, while others have been compelled to flee for protection and safety to remote parts of the state.

"During all this, warlike demonstrations are proceeded with, members of

their organization, on the streets and public assemblages, and through the columns controlled and directed by them, the most violent harangues and inflammatory appeals are indulged in, both against the general and state governments, and at least one of their organs comes out boldly and defiantly against existing authority and calls upon the people to assemble and form a new government. The power and authority of the state is set at naught. These unlawful proceedings cannot be arrested, simply because we are destitute of arms and ammunition whereby to equip a force capable of coping with them, which, it is now said, numbers six or seven thousand with their sympathizers in large numbers outside. At most we have not muskets and rifles enough to arm six hundred men; ordnance and ammunition we have none. I would therefore most urgently ask that you transmit orders to the officer who is or may be commanding the Pacific division, to issue to the state authorities on the requisition of the executive, such arms and ammunition as may be needed for the purpose of the insurrection; at least the number and quantity specified in the requisition I made on General Wool, as appears in a postscript of the enclosed copy of my communication to him of June 7th.

"I would also urge the importance of transmitting such orders to the officer commanding this department to render such assistance in arms and ammunition at any future period as may be required by the executive for the purpose of enforcing obedience to the constitution and laws, as it is feared the example afforded by the present organization may extend its influence to other localities, in all probability to renew the present one, even after disbanding their forces. In conclusion I would add, without the aid which is now sought at the hands of the general government, the state authorities can no longer afford protection to its citizens or punish the lawless acts this body of men have been guilty of; and with impunity they may and doubtless will proceed with such acts of aggression and disobedience towards the government as will ultimately result in its entire destruction. I would beg leave to refer you to the Hon. R. Augustus Thompson, recently U. S. Land Commissioner for this state, and Colonel F. Forman, now the postmaster of the city, who are deputed by me to lay this communication before your excellency, for a more detailed and minute relation of these affairs than can conveniently be embodied in a written communication. Your earliest possible attention to this matter is extremely desirable.

"Very respectfully, your obedient servant,

"J. NEELY JOHNSON, *Governor of California.*

"*His Excellency Franklin Pierce, President of the United States, Washington, D. C.*"

To this communication the president, through Secretary Marcy, made reply in these words:

"DEPARTMENT OF STATE,
WASHINGTON, July 19, 1856.

"SIR: The president has received your communication of June 19th, representing that an illegal association in the city of San Francisco had overpowered by force public authority there, and requesting the aid of the United

States to enable you to maintain the government and enforce the laws of the state. The president has given to the subject the most careful consideration. He is deeply impressed by the anomalous condition and dangerous tendency of affairs in San Francisco, as set forth in your letter, and is prepared, whenever exigency arises demanding and justifying his interposition, to render assistance to suppress insurrection against the government of a state, and maintain the supremacy of the laws in the mode and to the extent of the authority vested in him by the constitution and acts of Congress of the United States.

"In the present case, serious doubts of his lawful power to proceed in the manner indicated by you having occurred to the president, he referred the question to the attorney-general for advisement, and the conclusions submitted by that officer have, on full reflection, been decided by the president to constitute insuperable obstacles to the action now desired of the general government. The report of the attorney-general is enclosed for your information. The president will not allow himself to believe that the prevalence of rash counsels and lawless violence still continues in San Francisco. He confidently trusts that the citizens of California who have suffered themselves to be betrayed, by whatever inducements, into violations of the public peace of so dangerous a character, will already have resumed their obedience to the laws, and that hereafter, instead of assuming to act independently of the constituted authority, they will, as good citizens, coöperate with it in the earnest endeavor to secure a prompt, impartial, and vigorous administration of justice, in the only way in which the life, property, and rights of the people can be protected effectually, that is by faithful conformity with the constitution and laws of the state.

"I am, sir, very respectfully, your obedient servant,

"W. L. Marcy.

"*His Excellency J. Neely Johnson, Governor of California.*"

The spirit of Attorney-general Cushing's opinion is embodied in Mr Marcy's despatch. It is too long for insertion here. The attorney-general says there is no evidence "in what has thus occurred at San Francisco that there has been committed or threatened any act of resistance or obstruction to the constitution, laws, or official authority of the United States." He discusses the powers of the president, under the constitution, to introduce military force into a state, and considers that the present case does not justify interference either by calling out a militia force or in other respects acceding to the governor's request. Even had federal interference been invited through the legislature in due form, the statute authorized him only to employ United States forces, or to call out

the militia of some other state, the law presuming the governor of a state always competent to call out his own militia. There were no conditions of pressing exigency, no deeds of outrage, no shock of battle. The trouble was in the regulations of confederation; no provision had been made for subduing the people of the state to the will of one man. The constitutional power of the state was the Vigilance Committee. This power was not at the command of Mr Johnson. Although the president might have in his discretion the moral power, Mr Cushing did not think there existed sufficient legal excuse for him to grant the governor's request.

Affairs, indeed, were in a singular condition when a governor of a state applies for military aid to be used against a majority of the people who elected him.

The president appeared in no way excited over the condition of things. When asked by Senator Toombs what course he intended to pursue in reference to the requisition of the governor of California, he replied that he should take no action at present, that the legislature must first convene, and if they refused to act it would be the duty of the federal government to interfere. Furthermore, letters from responsible persons in California assured him that existing troubles would probably be all settled within thirty days.

It will be seen by the perusal of these documents that the president wished just then to evade the issue; that he regarded or affected to regard the application as not in proper form, as it should have come through the legislature. He declines to interfere at this juncture, except to protect the men and property of the United States. With all his omissions and misrepresentations the case does not seem sufficiently strong to warrant the general government in interfering.

The attitude assumed by the president and his party forcibly illustrates the unrighteous workings of the governmental system of this greatest of republics. Pierce and his administration were opposed to

the action of the Vigilance Committee, and I believe would have directed Wool to blow up the Sacramento-street building but for the fact that just then parties at Washington were organizing for a presidential campaign, and to suppress an insurrection at that time would have been impolitic. It was well for San Francisco at the moment, that the president of the United States was, as are nearly all politicians, more firmly wedded to party than to principle; but blush, oh! Americans, for your rulers, and seek not among them those who like this same much vilified Committee of Vigilance unselfishly offer their lives, their property, their honor a sacrifice to the moral integrity of their city! When shall we have honest rulers, men who enter office not for purely selfish purposes, and who will not serve in office for their own advancement only and irrespective of the public good? So President Pierce hides his head under a transparent subterfuge and says he cannot suppress insurrection unless application for federal interference be made through the state legislature.

"One thing is certain," argues an able law and order writer upon the present attitude of affairs, "the acts of the Vigilance Committee whether right or wrong on moral grounds can never be legitimatized except by successful revolution; and by a constitutional necessity such revolution can be effected only by the overthrow of the state government, and a victory achieved on land over the power of the whole nation. That power has already been invoked. That a *casus fœderis* is presented by the papers that have gone forward, there can be no reasonable doubt, and what the action of the general government will be in view of its own precedents, can hardly be a matter of serious question. There are in fact but two courses; one is revolution terminating in a Pacific empire or in subjugation and its incidents. The other is for the Vigilance Committee to stop exactly where they now are and bide the consequences of all

that is passed, trusting to the general judgment for immunity from that legal responsibility which they think they have the right to claim. The consequences adverted to are less formidable to-day than they will be to-morrow, and to-morrow they will be less portentous than the day after. So far chastisement has been visited on those only who were guilty of crime known as such to the law of the land, and therefore every sentence that has been pronounced has been ratified by the verdict of the people."

This specious line of argument may be answered in a word. The Vigilance Committee did not seek to legitimatize their proceedings, did not care whether the fruit of their action was called lawful or bastard. Born of necessity, though out of the legal forms of wedlock, the purpose was as pure as was the virgin's conception, and the offspring of their acts as holy as was her child. As to the impossibility of any other solution of the dilemma than one of the two mentioned, I have only to point to the sequel. A straightforward honorable path, leading to the grandest and most satisfactory results, was found and unwaveringly pursued by the executive committee, and it was neither of the inevitable paths prescribed by the law and order faction.

Says the Nevada *Journal* of the 27th of June on the situation:

"Upon the requisition of the governor of a state the president is bound to bring the force of the nation to suppress a revolt against the legal state authorities. Living as we do far removed from the power of the Union, it cannot be directed against us till the people have quite thoroughly purged themselves of the unwholesome causes of the complaint, and restored health for the present and some time in the future.

"By proclamation a state of civil war actually exists. The people are opposed by authorities they have once delegated with power for a certain length of time which has not yet expired. But the governor and his adherents can claim nothing but the shadow of force. The constitution may be appealed to, but it furnishes them with neither men, arms, nor money. The records of the last gubernatorial canvass may be shown, the commission of the executive, his inaugural, and the recorded history of his many vetoes, proofs conclusive of the highest authority, but they avail nothing against the sovereign will of the people at this moment. The delegated voice of the

state, so far as San Francisco is concerned, has been revoked for a time. A large proportion of the available arms in the country, except those belonging to the general government, are in the hands of the people. In point of numbers and munitions of war, the governor is powerless compared with the Vigilance Committee and their supporters. He cannot do much damage if he would.

"Under such circumstances, knowing that the sole design of the people of San Francisco is to obtain their rights as citizens and secure them for the future, without a desire to subvert the civil authority of the state, only so far as necessary for immediate self-protection, it is not difficult to see what the result of the affair at San Francisco will finally be. The president can move no number of men or arms sufficient to put down the people of this state in a shorter period than three months, and long ere that time will have expired peace and quietness will once more reign among us. The rascals who have so long contaminated the fountain of justice will have been extirpated, and nothing will be left deserving the sword and bayonet when the United States troops arrive, should they arrive at all, which is extremely problematical.

"With the restoration of civil authority a new era in the history of our state, young in years but old in vice, may be reckoned to commence. That standard of virtue known in older communities we hope will be emulated hereafter among our people. The ruffianism which has characterized the state, giving it the reputation of being the hell of the world, will we trust be known no longer. Give California but a fair and spotless name to which the best efforts of San Franciscans are fearlessly devoted, and with her mild climate, unbounded and undeveloped wealth, and her ample fields for the display of energy and enterprise, immigrants will pour in upon the coast, making the western arm of the republic powerful and its people prosperous and happy. We trust that the effect of the Vigilance Committee will end in so great and desirable a blessing."

How much better, how much wiser it would have been for lawyers and officials, so far as their duties of office would permit them, and the incendiary, denunciatory gubernatorial and military law and order element, to have heartily seconded the people in their effort to crush the viper villainy! Then the work would have been short, the result decisive, and both the political and business parties would have soon settled back into their former routine. Sheriffs and police officers might have hunted criminals side by side with the people, and on catching them, if the latter wished to do the dirty work of hanging, and their numbers were such as to overpower the officials, so that they were not made responsible for the conse-

quences, of what had they to complain? Neither governor nor judges need have formally sanctioned the illegal acts of the Vigilance Committee, but as long as they perceived that this was an organization of pure elements, sustained by a large majority of the people, and doing in a most cool and orderly way a most necessary work, would it not have been wise in them to have reined in their hot tempers, smothered their personal pride, and let the people alone for a time. True, it would not have been easy for men so constituted, so educated, so filled with the chivalrous idea, to do. But it would have been patriotic, it would have partaken of the highest, holiest patriotism; for true patriotism consists not in the advancement of self, but of the elevation and ennobling of one's country.

The denunciatory policy adopted by law and order writers and orators when logical argumentation failed them was most damaging to their cause. Vituperation never makes converts. Invective is the last resort of weak dialectics. Compare the famous incendiary Sacramento speech of General Howard and the following not unfair specimen of the *Herald's* editorials with the calm, dignified, and logical address of the executive committee to the people, of the 9th of June. If the weakness of argument be in accordance with the intensity of abuse, then the lawless law men were truly in a bad way:

"What the old prophets and perfectionists desired long but died without the sight," writes Mr Nugent the 7th of July, "it was to be the reward and precious boon of these latter-day saints of the Vigilance Committee and its affiliates to behold. We were assured, as were the South Carolinians of 1832, that the means to effect all this were simple, cheap, easy, and expeditious; that no harm could come of it; that it was a movement of the people, for the benefit of the people, sanctioned and applauded by the people; that those assuming this absolute power and despotic dominion over the laws, and over the lives, property, and liberty of the citizens, without—so tender was their regard for the people—even putting the dear people to the trouble of meeting, or acting or expressing in any intelligible or authentic shape their wishes; that these directors and autocrats were good men and pure, and noble and incorruptible; indeed all the laudatory adjectives of the language were exhausted in their praise. True, no one knew even their names, except by vague guess and surmise; true, no one knew anything of their antecedents; true, no one

had or could have any assurance from anything they had ever done, that men, unknown even in their own city, suddenly were inspired with all statesman-like and patriotic qualities. What of that? Were they not 'our best, purest, most respectable, and wealthiest citizens'? But in what they had ever shown a peculiar purity, or how it follows that wealth in California is irrefragable proof of virtue and respectability, we were not informed. With an amiable credulity, we took all that in trust. It was true that in this great reform movement members were enlisted whose very names were synonymous with everything that was odious and disgusting in fraud and crime. Bankers, whose spoil had been the hard-earned bread of the mechanic and the miner, the washerwoman and the daily laborer; who had held out fraudulent assurances to the widow and the orphan, to the aged and infirm, and to the sick and disabled, to deposit the scanty provision which might support poverty in its night of want, or protect age in its feebleness and decrepitude. Merchants, whose raging lust for gold, as hot as Pizarro's and his crew, hazarded the lives of their fellow-citizens through the slow process of famine, by illegally forestalling the market and raising the price of the necessaries of life to unheard of rates; and even then, if the tale may be believed, selling deteriorated and adulterated articles for sound and wholesome provisions! And of that long series of mercantile crimes, of fraudulent invoices, of smuggling, of false accounts and settlements of consignees, of fraudulent bankruptcies, of all the long list of *crimen falsi*, forgeries and breaches of trust included; of the long, black catalogue which has made San Francisco, more than its crimes of violence, a scoffing and a byword, not only throughout the state, but throughout the world—how many representatives were not found in connection or sympathizing with this Vigilance Committee? And yet this *par excellence* mercantile diet can find no time and no subjects for the punishment and exposure of mercantile crimes! Ah, no, not they! Cheating, swindling, fraud, perjury, forgery, embezzlement, smuggling, beggary of thousands of poor mechanics and laborers and widows are nothing; provided always that they are done in a commercial way and not in a political way; but the man who shoots or stabs or stuffs a ballot-box must exclusively be the victim of punishment by these merchant princes."

Ay, there was the rub! It was most humiliating, most galling to lofty-minded men of learning and chivalry, to fire-eating men of law and bowie-knives, whose patriotism was merchandise, to see these men of merchandise display that true self-sacrificing patriotism which in themselves existed only in name. What was Johnson's patriotism? Pride of position; petty tyranny; wounded self-love. What was McGowan's patriotism? Self-glorification; pompous display; blood-and-thunder greatness. What was Casey's patriotism? Partisan jealousy; malignant passion; blood-thirsty revenge. What was Nugent's patriotism? Sectional

superciliousness; vindictive regrets in having embarked in a wrong course which would be more ruinous now to leave than to continue. Descending to lesser official minions, lawyers, judges, sheriffs, political scene-shifters and wire-pullers, and the myriads of legal leeches that prey upon the people, we find patriotism a byword, a byword loudly mouthed, while their hearts are hollow and their voices brassy. With them patriotism is political pap; a house to live in; bread and whiskey money. Compare such patriotism, in all candor compare it with the patriotism of Coleman, of Dempster, of Truett, and all the others of that volunteer army of eight thousand and more devoted men, who staked their lives and fortunes for the vindication of social morality and good citizenship. Was it glory they sought? No. They acted unseen, unknown; their deeds were untrumpeted; their identity they sunk in their cause; their names even were converted into numerals. Was it the lust of power that called them into action? No. For they were already the sovereign power, and had they longed for office there were the regular and easier channels open to them. Was it position, occupation, money? No. Already they held positions esteemed by them as much higher than those of legislator and governor, as these latter esteemed theirs above those of merchant and mechanic. And as for occupation and money, they neglected better occupations than the state could offer them, and their own money they poured out like water, simply for the sake of serving; and with their gold they were ready to pour out their lives. I find that nothing but pure patriotism actuated them; but seek not such as this in elections, in legislative halls, in the jumping-jack gyrations of political mountebanks, or in the bladder-blown principles of party or polity. Patriotism lies in the hearts of the people, not upon the slippery tongues of politicians.

CHAPTER XXI.

ARREST OF TERRY, JUDGE OF THE SUPREME COURT.

> Lo! with crooked judgments runs th'avenger stern
> Of oaths forsworn, and eke the murmuring voice
> Of Justice rudely dragged, where base men lead
> Thro' greed of gain, and olden rights misjudge
> With verdict perverse. She with mist enwrapt
> Follows, lamenting homes and haunts of men,
> To deal out ills to such as drive her forth,
> By custom of wrong judgment, from her seats.
>
> *Hesiod.*

We enter now upon scenes yet more startling, where the Executive assume doubtful powers, and where the people in organized bands display a skill and a courage which overshadow even the achievement at the Broadway jail on the quiet Sunday preceding King's death. "On the 21st," says Mr Coleman, "we had precipitated upon us the most unexpected and the severest task which fell to our lot during the year."

It was a circumstance deeply to be regretted, regarded indeed by the Committee as a calamity, that a judge of the supreme bench should leave his duties and his seat at Sacramento, come to San Francisco, and go about the streets openly and violently denouncing the Committee and its sympathizers, using all his influence among his hot-headed friends to precipitate a collision between peace-loving citizens.

The fact is there were certain of these bloody-minded individuals who were determined the Committee should not retire without a fight. Their anger was flaming for a fray. "The secret of the greater part of the opposition to the Vigilance Committee," says Mr Dempster, "was the bitter feeling on the part

of the pro-slavery party, which had long controlled the state, and which, unable to manipulate the Vigilance Committee, looked with dread to its peaceable disbandment, as in that case its leaders would remain the future leaders of the people."

It was to make of the Pacific States a slave empire that the chiefs of that party had proposed dismemberment from the federal union, even while begging the aid of the federal authority against the only true federal supporters. Others sought to commit the vigilance party to a revolutionary policy, to that end writing articles for the public press which professed to embody the views of the Committee in regard to a change in state government. The law party, now well organized, strong in its compactness, and murderously determined, could not endure the thought of disbandment until the Committee had perpetrated some act destructive of its influence. The influence which would flow from a series of attempts so remarkably free from failure was to be dreaded.

As we have seen, rumors were rife inimical both to the Committee's peaceful continuance and peaceful retirement. The law party were hedging them round at home, and invoking federal thunderbolts from the other side of the continent. There was but one thing for the Committee to do, which was to intercept the arms said to be the state's quota, obtained surreptitiously and shipped from Benicia by Governor Johnson to General Howard at San Francisco. The enemy must be met on his own ground; and this they immediately set about doing.

"I have correct information," writes James Hutton of the schooner *Bianca* to the Executive on Friday the 20th of June, "where the muskets are that the law and order party have stolen, and will volunteer to go in my schooner and try to bring the same to the Committee of Vigilance rooms." Captain Hutton was permitted to go with the Executive's benediction; and the director of police was ordered to detach men

sufficient to seize the arms and bring them to headquarters. They were found on board a schooner loaded with bricks, which was nearing the wharf. Captain Hutton ran alongside of her; the vigilants jumped on board, and without saying a word turned up a few layers of bricks and came upon twelve cases of rifles and six cases of ammunition, which were taken without ceremony.

The thanks of the Executive were tendered Captain Hutton with permission to embark in other adventures, but in those he was anticipated by others of the Committee eager for honors. The next day after Captain Hutton's success a detachment of twenty-two vigilants was sent by the Committee to intercept certain arms and munitions of war on their way to the city from Corte Madera, said to have been sent from Sacramento to the state-prison, there to be cleaned and put in order for the law party. The vigilants embarked in the sloop *Malvina* and proceeded to Corte Madera, where they overhauled the schooner *Mariposa*. Running the sloop alongside, the vigilants, whose cocked pistols kept the crew quiet, leaped on board, and on lifting the hatches found eleven cases of muskets and three boxes of pistols. Sam Bantam and the Benicia Boy, two notorious characters, were on board, but in view of the circumstances they had little to say. In less than ten minutes from the time the *Malvina* grappled the *Mariposa*, the weapons were transferred from the schooner to the sloop, the *Mariposa* was cast loose, and the *Malvina* was on her way to San Francisco. About five o'clock the party landed at Clay street, where they were met by a large body of vigilant infantry who escorted them and their capture in triumph to the Committee rooms.

The information of this shipment of arms was conveyed to the Committee in the following letter:

"VALLEJO, June 20, 1856.

"*Gentlemen of the Vigilance Committee:*—

"I have just received some information which I deem it my duty to communicate to you by the Napa boat, which will be along in a few minutes.

A boat or ship's launch arrived here last night or early this morning, with arms on board, supposed to have been taken from Benicia, either procured from the friends of the law and order party, or stolen from the United States arsenal there; as they express a fear that Gen. Wool will get wind of it the latter is quite probable. They have also some state-prison convicts on board, and state their intention of going to Corte Madera to get the arms cleaned by the convicts, and it is inferred they will take the arms from there to the law and order party in San Francisco. One of the party is a notorious fellow, known as the fighting boy of Benicia; a large, tall man by the name of Heenan.

"The information was obtained from them when they came ashore to get their breakfast this morning at the Washington Hotel, the proprietor of which is in league with the law and order party. They were somewhat communicative, not knowing that any but their friends were present. Two men employed at the hotel gave the information, and although it is somewhat vague, yet there is every reason to believe that there is something wrong going on. Mr Richardson, the stage-driver, has just gone or is about to go to Benicia to inform Gen. Wool of the facts. As the tide will not turn for three hours they cannot leave for that time. If a steamer could be had on the arrival of this, they might be overhauled in the bay before reaching the state-prison. The vessel is a sloop, her name I have not learned, and there is not time to gain more particulars before the boat leaves.

"Yours, respectfully, C. E. WETMORE, *Merchant.*

"P. S.—I refer to J. H. Coghill & Co. I gave the information in regard to Cusick."

Again on this same eventful Friday information came to Marshal Doane that certain arms, the property of the state of California, directed to J. Neely Johnson, Sacramento, were known to be on board the schooner *Julia*, then on her way from the Sacramento River to San Francisco. The grand marshal gave immediate notice to the Executive, who authorized him to take such steps for their capture as he should deem expedient. This adventure was pregnant with momentous results.

Calling to him the chief of the water police, the grand marshal said:

"Have you a small vessel ready for immediate service?"

"Yes; a sloop at the foot of this street."

"Be ready to sail in half an hour."

The marshal then summoned John L. Durkee, and gave instructions.

"Detail twelve men for special duty." Within ten

minutes Durkee announced himself ready. "At the foot of this street," said Doane, "you will find a small sloop manned and awaiting your order. Take it and diligently cruise the bay toward its northern end for a vessel supposed to have arms on board intended for the enemy; when found, board her, and bring to these rooms such munitions of war as you may find."

When James King of William was shot, John L. Durkee was a member of the city police. About two weeks after, he resigned his position and joined the vigilant police. The 16th of August he was appointed deputy director of police at a salary of twenty-five dollars a week. Mr Durkee was one of the most faithful and efficient officers on the roll of the Committee. He was extremely quick at comprehension, and steady of execution. In a remarkable degree he possessed the faculty of success; whatever he undertook, if it was within the bound of the possibilities, he accomplished. Some time after the disbandment of the Committee he was made fire marshal of the city of San Francisco; and under his thorough and skillful management the service has been brought to a proficiency second to none in America. The great responsibility resting on him, and the high character he has ever sustained, he is wholly worthy of. Of his promptness in answering the call of duty, of his coolness and efficiency in times of danger, no less than of his high integrity and modesty of demeanor, I can bear grateful testimony; but for his skill and courage in extinguishing a dangerous fire which threatened my Library I should not now be writing his history.

It was thought by some that the plan of sending into the bay vessels having a few muskets on board, and then accidentally, as it were, conveying notice of the fact to the vigilants, originated with the men of law, with the object of entrapping the Committee into a seizure which would subject them to a charge of piracy under existing United States law, thereby forcing the issue which they so much longed for be-

tween the Committee and the general government. But of this there was no proof; and if such was the case it did not frighten the Committee from the risk.

Durkee immediately set sail, taking with him Charles E. Rand as his lieutenant. It was now drawing toward dusk, Friday evening. Cruising northward Durkee came to anchor in San Pablo Bay, wind and tide being against him. Presently he again set sail and overhauled several vessels, but found nothing answering the description of the one they sought. The search was kept up until nearly midnight. In the darkness it was with difficulty the vigilants could make their way around the shores and islands.

Finally through the black mist Durkee discovered an object close under Pueblo Point. It was a schooner lying at anchor; there was no light on board, and she might be deserted for any visible signs of life about her. Creeping noiselessly up, Durkee and his companions made fast to the dismal craft and silently boarded her. Captain and crew were all asleep. Their late potations had been more than usually liberal. Before they were aware of it half the vigilants were in the companion-way transferring the guns and sabres over to their vessel, while the other half with cocked pistols kept guard over those on board. The schooner's name was the *Julia*. The arms and vessel were in charge of J. R. Maloney, commonly called Rube Maloney, who had chartered the craft for fifty dollars to carry the arms down. With him were John G. Philips and James McNabb. Not the slightest resistance was made to this action of the vigilants, and the arms, consisting of six cases containing one hundred and fifty muskets, together with the three men as prisoners, were taken without delay to the city.

Arrived in the morning at California-street wharf, Durkee despatched a messenger to the grand marshal, reporting his success and asking what disposition

should be made of the prisoners. Maloney and Philips were notorious scoundrels. It was clear that the law party would claim that they had been sent by order of the governor to superintend the removal of the muskets from Benicia to San Francisco. After consulting with the Executive, Doane sent word to Durkee to let the men go. Though they were bad enough, there was no charge against them, and as they had relinquished the arms without opposition, the Committee had concluded to turn them loose.

Maloney and Philips at once reported to their party what had befallen them. Then they went from one drinking-saloon to another, reviling the Committe, and swearing they would shoot on sight various persons, with other blatant threats such as delighted the men of law and order, now literally panting for blood. Of these proceedings the Executive had due notice. It was evident that these mighty men needed a lesson; so at the one o'clock meeting on Saturday Mr Smiley moved that John G. Philips and James Rube Maloney be arrested immediately, which was ordered done.

Selected for this mission was a member of the fraternity named Sterling A. Hopkins, a native of Maine, but reared in Boston. He was an artesian well-borer, about thirty-three years of age, a man of great pertinacity, good at obeying orders, and afraid or ashamed of nothing. Since its organization he had been an efficient member of the Committee, and had been sent on many missions of danger and importance. He had little delicacy as to the nature of his work; he would as cheerfully play the spy or hang a criminal as eat his supper. All he required was a master strong enough to uphold him.

It was a small matter, the arrest of these persons, although they were desperate characters; so Hopkins thought, as he called to his assistance but three or four men and started off in search of Maloney. Palmer, Cook, and Company's bank, corner of Washington and

Kearny streets, was then one of the chief rendezvous of political leaders. Thither Hopkins and his comrades proceeded, and soon learned that the person they sought was in the second story of the building, in the office of the naval agent, Richard P. Ashe, a Texan and an active manager in the chivalry party, who was now surrounded by boon companions.

Stationing his men outside the bank, Hopkins stepped upstairs and entered the apartment of the naval agent and approached Maloney for the purpose of arresting him, when Maloney and all present, among whom were Judge Terry, Dr Ashe, and Mr Bowie, drew and cocked their pistols, and pointed them at him. Hopkins was unarmed. He did not enter the room for the purpose of shooting any one; neither did he desire to be shot. Accordingly he withdrew, descended the stairs, and instructing his men to keep a strict guard on the building, he hastened for assistance.

It happened that Dr Beverly Cole was just then riding by. Hopkins borrowed from him his horse, and giving it the whip galloped down to the Committee rooms and reported the situation. The chief of vigilant police ordered him to return immediately, keep strict watch, and he would send him reënforcements. Hastening back Hopkins found his foxes unkennelled. As he rode up, Maloney, Terry, Ashe, McNabb, Bowie, and Mr Rowe, all armed with double-barrelled shot-guns, were just turning the corner of the bank building from Washington street into Kearny. Hopkins threw himself from the horse and called on his men to follow. There were but four beside himself, James Bovee, D. W. Barry, H. A. Russell, and Joseph Capprice.

Up Kearny street went the game and into Jackson street, the hunters hard at their heels, Maloney, whom alone the vigilants were after, having the lead with his friends between him and his pursuers. Double-barrelled shot-guns loaded with slugs are not wholly safe

in the hands of passionate men; and it was not pleasant to the vigilants whenever they approached too near, that the men of law and order should wheel and bring the muzzles of their guns on a level with the eyes of their pursuers. Yet thus they proceeded up Jackson street nearly to Dupont street. Hopkins then attempted to rush past Terry and Ashe, who were in the rear, for the purpose of seizing Maloney. Terry presented his gun and prevented Hopkins from passing. Hopkins grasped the gun; those in front of Terry turned to his assistance and pressed Hopkins to the ground.

At this juncture Ashe levelled his gun at Bovee's breast ready cocked with finger on trigger. But he hesitated. It was becoming dangerous to shoot men in the streets of San Francisco.

"Are you a friend?" at length he cried.

"Yes," said Bovee, therein, I fear, telling a lie.

He might have been a spiritual friend, but corporeally his action ill accorded with his word, for immediately the answer was given he struck Ashe's gun aside, and presented a revolver at his head.

"Don't shoot!" cried Ashe.

"Drop your gun, then, if you please!" replied Bovee.

Still facing the enemy, Ashe slowly retired toward the armory of the Blues, a law and order encampment corner of Jackson and Dupont streets, whither it appears the party were tending, and where drilling was vigorously going on preparatory to annihilating the Vigilance Committee.

Meanwhile Rowe, who had been helping Terry and Ashe against Hopkins and Bovee, raised his gun upon Barry, who just then rushed up. Barry seized the muzzle in his left hand and with his right placed his revolver at the head of Rowe, who thereupon dropped his gun and made for the armory. The accidental discharge of a pistol, but directed as Terry thought against himself, brought matters to a crisis. For on

the instant, quick as a flash, Terry drew from its sheath a large bowie-knife and plunged it into the left side of Hopkins' neck, to the depth of about six inches. Hopkins staggered back and cried: "I am stabbed! Take them, vigilants!" Terry, Maloney, and those of the party remaining fled and took refuge in the armory. Close behind them were Bovee and Barry, but the fugitives managed to gain admission, when the iron doors were slammed shut, and barred. The two vigilants then took their station at the entrance to prevent egress or ingress and thus waited the arrival of assistance.

Presently a pompous, portly man made his appearance at the armory door and demanded admittance. He was ordered to stand back.

"Do you know who I am?" asked the pompous, portly man.

"I don't care a damn who you are," was the plain though somewhat profane reply.

"I am Major-general Volney E. Howard," whispered the commander of the law and order forces. "Do you want to see this city laid in ashes?"

"You cannot enter here."

The pompous, portly man stood aside, and another applicant for admission appeared in hot haste at the door.

"I am a lieutenant in Calhoun Benham's company, and was sent here to —"

"I am a member of the Vigilance Committee and you cannot enter," said Barry.

"What! Have the Vigilance Committee possession of this building?"

"Yes."

"The lieutenant turned, rolled his eyes over his left shoulder, and glided round the corner.

"This came quickly to our ears," says Coleman, "and sounded like the explosion of a magazine. I saw instantly the magnitude of the new labor and the new responsibility. It was not only to vindicate

the common law of punishment for crime, but we had a law specially provided for the protection of our people, that any violence done them should receive exemplary punishment. And to feel that the presiding judge of the supreme court of the state had voluntarily left his home at the capital and had placed himself in this most unfortunate position was an utterly unsatisfactory and undesirable denouement."

The vigilance alarm now sounded, two or three quick taps, rest and repeat; and orders were at once issued for Terry's arrest. Immediately the streets were alive with men, many of them with their arms full of muskets and sabres, hurrying to head-quarters. Those who could quickly find their companies took their places; those who could not were ordered to fall in anywhere. Soon scores of vigilant squads were on the streets marching or running toward the armory of the Blues. Conspicuous among the vigilants was the agreed signal of the white badge in the button-hole of the left lapel of the coat.

Merchants left their customers, clerks dropped their pens, and mechanics their tools. Draymen sprang from their seats, stripped their horses of the harness, all save the bridle, and mounting rode briskly away to the scene of action, leaving their loaded trucks standing in the street.

Mr Dempster was in his store at the time, and when one of his clerks rushed into his office with the news, upon the instant he jumped into his buggy which was standing at the door, and although head-quarters were less than four blocks distant, and although he whipped his horse into a run, so dense was the crowd before he reached the building that he was unable to get within a block of it, and springing to the ground he left horse and vehicle unattended and untied in the middle of the street and forced his way on foot as best he could through the dense throng eagerly hastening thither; nor did he see his horse again until next day, when he found it had

been safely stabled by some one unknown to him. On entering the building he found the men hastily, but in silence and without the least confusion, falling into line.

"All right!" exclaimed Dempster, encouragingly. "Keep cool; take your time about it."

"Ah, Mr Dempster," was the reply; "we have been long and anxiously waiting to make the clean sweep!"

As one of the war committee Mr Dempster then hastened to the corner of Jackson and Dupont streets.

Colonel Olney was lame at the time. During a certain arrest a day or two previous, while the police were conveying the prisoner to the committee rooms, there was a great rush of people, which it was deemed advisable should not crowd so closely on head-quarters as to hamper the movements of the men. Olney was ordered to throw a line of vigilants across Sacramento street, just above the corner of Front street, to stop the rush. He did so; but the multitude overran the whole of them. The colonel was knocked down and his ankle sprained.

He was at his boarding-house on Stockton street when the alarm sounded next day, and one of his men appeared before him almost breathless, saying that Terry had killed Hopkins. Olney's foot was so swollen that he could not get his boot on; but seizing one belonging to a large-footed boarder, he hobbled down stairs and out into the street, where he found himself in a crowd of excited people.

Then what should he do? He could hardly walk at all; head-quarters were at least half a mile away, and the thought that his absence might mar that day's doings was unpleasant to entertain. There was not a moment to lose; to get a horse in that neighborhood was impossible, and he could not walk. What was to be done?

While thus speculating, every second seemingly an hour, his eyes fell on the wagon of a kerosene dealer who

had driven up and stepped to the sidewalk just as the alarm sounded. In a moment Olney was in the driver's seat, and with reins and whip in hand was lashing the horse like a fury, toward the Committee rooms. The driver had barely time to scramble up beside him as the horse sprang forward, scattering the affrighted people to either side. One glance into the sternly set features of Olney's face satisfied the driver that expostulation would be in vain. Away they rattled down the street; the colonel whipped and the kerosene flew. The empty cans danced out of the vehicle, and the full ones overturned and scattered their contents upon the cobble-stones. Presently the dealer mustered courage and said:

"You are spilling all my kerosene."

"Damn your kerosene," was the reply. Then remembering that this poor pedler should not be made to suffer for the daring deeds of chivalry, the colonel added, "I will pay you for your kerosene."

Arrived at head-quarters the colonel called for his horse, a magnificent white steed, and was lifted to its back. The horse alone was worth a hundred men that day. No sooner was he mounted than round him rallied the Citizens' Guard, the pride of the committee, and within twenty minutes they were off for the armory of the Blues.

The marshal with a large force promptly occupied all the streets in the vicinity of the armory. The rendezvous of the state forces was surrounded almost instantly after the striking of the vigilance alarm, so that the escape of the inmates was impossible. Two pieces of artillery were planted before the building, ready loaded and with match lighted. A committee consisting of Dempster, Smiley, Truett, Tillinghast, Rogers, and Ward was appointed to proceed to the seat of action and advise with the marshal in the field.

Excitement round the armory now roared explosively; the people were wild. The chivalry declared vehemently that they would die where they were

rather than yield, and in the ranks of the organized vigilants anxiety was depicted on every face. For a moment the sky presaged a time of terror. But though at first the state forces so stoutly swore resistance, they soon saw how extremely futile any efforts of theirs would be. They saw failure, ay, they saw their cause doomed, the wiser of them, in the hurrying horsemen with drawn sabres, hurrying not confusedly but as under the all-seeing eye, and in the squads of infantry with glittering bayonets marching hither and thither, marching not without purpose, but as under the all-directing mind.

Within the walls of their armory, now their prison, ebullient passion had settled into dark, malignant hate. They talked together now in quiet tones, though deeply muttered curses were not unmingled with their sober converse; they talked as men with whom every uttered word had its meaning. From their windows they saw the surging mass below, and as by common consent bravado was laid aside. They now felt the few moments left them within those walls was the little point of time upon which hung their destinies. Terry did not know but that the man he struck was dead; and the furtive glances cast from the window at the angry multitude below left in his mind loose and unsubstantial the slender thread that held his life to earth.

"This is very unfortunate, very unfortunate," said Terry, now beginning to realize the insensate folly of his proceedings, "but you shall not peril your lives for me. It is I they want, I will surrender to them."

"There is nothing else to do," replied Ashe, "but first of all we must try to escape the fury of this mad crowd."

Ashe was captain of company A, and commander of the armory. A loud ringing rap at the iron door now brought him to the window of the second story.

"I demand instant surrender of these premises," exclaimed Grand Marshal Doane.

"I will open the doors on condition our safety be guaranteed us," replied Ashe.

"There is no condition about it," returned Doane; "open the doors or I will blow up the building."

"Judge Terry is here and will make no effort to escape. If any of the executive committee are here I will send them a written proposal."

The war committee then stepped forward, ready to hear what the commander of the state forces had to say. Mr Ashe retired from the window, but returned presently, and passed out a note which read as follows:

"SAN FRANCISCO, June 21st, 1856.

"*Gentlemen of the Vigilance Committee:*—

"If the executive committee will give us protection from violence we will agree to surrender.

"R. P. ASHE, Captain Company A.
"J. MARTIN REESE, 1st Lieut. Co. B."

The war committee then entered a German bakery situated next door to the armory, to write a reply. The proprietor was absent, but his wife, a hearty intelligent woman with a lager-looking baby in her arms, granted the intruders the permission which they asked, to use her counter as a writing-table.

"You need not be afraid," said Mr Dempster to her assuringly.

"Indeed, sir," she exclaimed, with a smile of confidence, "I am not afraid of the Vigilance Committee."

"But we may be obliged to fire upon the building," continued Mr Dempster.

"You may fire and welcome," returned the woman, "only let me get the children out." There was really more danger than the woman supposed; but if all apprehensions of danger should pass unknown, as indeed much belonging to real danger does, nine tenths of the world's misery would be obliterated.

The reply of the war committee then passed into the armory read as follows:

"CORNER OF DUPONT AND JACKSON STREETS,
SAN FRANCISCO, June 21st, 1856.

"*R. P. Ashe and J. Martin Reese, commanding:*—

"GENTLEMEN: We have to say in reply to your communication of this date that if Judge Terry, S. R. Maloney, and John B. Philips, together with the

arms and ammunition in your possession, be surrendered to the charge of our body, we will give you and the building in which you now are protection from violence. Yours,

"By order of the executive committee of which we are members.

"No. 12, No. 13, No. 50, No. 645, No. 332.

"An answer required in fifteen minutes, it being now ten minutes to four."

To which answer was made:

"San Francisco, June 21st.

"*Gentlemen of the Vigilance Committee:*—

"If you will agree to see that Judge Terry and Mr Maloney will be also protected, while in your hands, from violence from persons outside of your organization, then we will agree to surrender on the terms of your note just received. Respectfully,

"R. P. Ashe, Capt. Co. A.

"J. Martin Reese, Lieut. Co. B.

"P. S.—Lieut. Philips is not with us."

This was answered as follows:

"June 21st, 1856.

"*R. P. Ashe and J. Martin Reese, commanding:*—

"We agree to protect Judge Terry and S. R. Maloney from violence from parties outside of our organization, as proposed, and beg leave to remind you that the time proposed in our first note has already expired.

"By order of the executive committee, of which we are members.

"Nos. 12, 13, 50, 332, 645."

Immediately upon receipt of this last communication the doors of the armory were thrown open by those within, and a company of vigilants marched in. All present were disarmed. Terry and Maloney were taken charge of and the armory was quickly swept of its contents. Three hundred muskets and other munitions of war were carried out and placed on drays. Two carriages then drove up, in one of which was placed Maloney and in the other Terry. Both were attended by a strong escort, Olney forming round them with his Citizens' Guard, increased to a battalion. Then in triumph the Committee men, with their prisoners and plunder enclosed in a solid body of infantry and these again surrounded by cavalry, marched back to their rooms. The route taken was along Dupont street to Washington, down Washington and through Kearny, Clay, and Montgomery

streets, to and down Sacramento street. The procession was attended by a larger crowd even than that which honored Casey and Cora with their presence. Arrived at head-quarters, Terry and Maloney were conducted to separate cells.

The prison portion of the vigilant premises, situated in the most easterly of the three buildings, was fifty varas, or one hundred and thirty-seven and a half feet in depth. There were at times fifteen cells partitioned from the main hall, constructed of boards and closed from floor to ceiling, though but nine are represented in the cut previously given. All the permanent cells were on the west side of the room. There was never more than one prisoner confined in each apartment, and at the door of every occupied cell stood constantly a man on guard. Terry's cell, the largest in the building, had two windows and was situated at the south-west corner of the room. It was not by any means secure, but the distinguished prisoner was most carefully guarded. All or nearly all the other cells were dark.

CHAPTER XXII.

CAPTURE OF THE ENTIRE CHIVALRY FORCES.

The world, the flesh, and the devil.
Prayer Book.

Come we now to the crisis of the crusade. It was the moment when tidings of Terry's arrest reached the executive chamber. The three o'clock meeting of Saturday afternoon had been called to order by Mr Thompson, one of the vice-presidents, but when Hopkins was stabbed John P. Manrow occupied the chair. It was now about half-past four. Little George Ward, the Hotspur of the association, being always on his feet, and hence not having to rise in addressing the meeting, offered the following resolution, which was adopted: "That the grand marshal be ordered to take possession of all arms and munitions of war that may be found in the hands of our opponents, or that may be likely to fall into their hands."

Nothing could have been more opportune than this step at this juncture. That it was unpremeditated there can be no question, for the Terry affair was not only wholly unexpected, but was deeply regretted by the Committee, as well as by himself and his friends. A general fight would have entailed less danger to the law and order men than the falling of any of their number into the hands of the enemy. This motion of the little Hotspur displayed well-convoluted brains. Besides possessing pluck and quickness, Hotspur's head was tolerably clear.

At all events, this motion and what followed from it broke the backbone of the chivalry. The vigilants

were all eager for it. They were tired of the jeers and insulting braggadocio of their opponents; they longed for some determinate action.

About the same time, which was shortly after four o'clock, Curtis writes from Jackson street to the executive committee: "We have caged Terry, Ashe, Maloney, and a man who presented a loaded weapon at one of our police. Shall those who made resistance be brought to garrison? I have orders now only for Terry and Maloney." Curtis was directed to arrest those whom he had named. At the same time it was made a rule "in case of armed resistance to police while in the act of arresting any criminal, that said police have the power to arrest all such persons."

There were other companies drilling at this time besides those commanded by Ashe and West, who held themselves under state orders. Calhoun Benham had a company; likewise John C. Hays, Riggs, Ryan, Monroe, and Regan all had companies which drilled nightly.

While a portion of the vigilant forces stood guard over Maloney and his judicial protector at the Blues' armory, a *coup d'état* was executed by the others, which, for an army of such miscellaneous and recently organized material, displayed consummate generalship. This was the stroke, this the blow that laid low the agents of outraged law and of disorder. Simultaneously, and almost before the men who executed the movement were aware of it, every important law and order encampment in the city was surrounded by the vigilant forces, their inmates made prisoners, and their arms and munitions of war seized and conveyed to the head-quarters of the Committee on Sacramento street. The open and violent collision with the vigilance forces was the death-blow to the opposing party; and there is no question now that in the event of Hopkins' death a justice of the supreme court will be executed by the Vigilance Committee. This presents nothing new in the popular tribunal principle,

but if it happens it adds greatly to the cares of the Committee.

And this is the way the thing was done. On receiving instructions to that effect from the Executive, the marshal instantly detailed squads to scour the city in different directions in search of arms, and of men bearing arms against the Committee. The force was divided into four parties, which started simultaneously for suspicious places. As before stated, a strong detachment had been left to guard the remaining inmates of the Blues' armory, some sixteen in number, who were still held prisoners by the vigilants, and these were now ordered to head-quarters.

The next most important rendezvous of the law and order forces was the armory on the north-east corner of Clay and Kearny streets, in the large brick building known as the Merchants' Exchange. Before this building Marshal Doane appeared with his forces.

The work was not accomplished without resistance on the part of the law and order forces. At the first alarm members of the different companies rushed to their armories, but in most instances only to find them in the hands of the vigilants. Some gained admission before the seizure of their encampment, but many were repulsed at the door, and drifted purposeless and ungeneralled about the streets.

When the column enclosing the Blues' armory capture arrived at the Kearny-street armory on their way to the Committee rooms, the vigilant forces there stationed presented arms, and the main body halted. Detachments were then drawn from it and added to the guard surrounding the Kearny-street armory. These were so stationed as to insure the surrender of this law and order stronghold. Palmer, Cook, and Company's building was likewise placed under guard. The main body then moved on to Sacramento street. To the Exchange building cannon were then brought and planted, and matches lit. A formal demand was made for the surrender of the place. Six o'clock

was the hour, and the inmates were informed that their answer must be decisive, and quickly given. Within were portions of the Jackson Guard, the Union Rifles, and the Continentals, numbering together about seventy-five men. General Howard had shortly before reviewed these troops, but he was not at present within the building. Colonel J. R. West, late United States senator from Louisiana, was now in command of the armory. He refused at first to surrender in absence of his superior officer, and asked for time. The Committee regretted they could not accommodate him in this respect; he could see the situation as well as any one; he might surrender the armory or take the consequences. Nothing was said by the officer in charge about a little note in his pocket, which read as follows:

"*To Col. West, or the officer in command of the building known as the California Exchange:—*

"SIR: You are authorized to surrender the building under your command, when there is no reasonable prospect of a reasonable defence.

"VOLNEY E. HOWARD,

"*Maj. Gen. 4th Division, Commanding in San Francisco.*"

West scanned thoughtfully his little company, then looked at the cannon and ran his practised eye along the vigilant lines which stretched far up and down the street, and over into the plaza, and was satisfied. "Captain O. B. Crary and myself," says Mr Dempster, "went into the hall. There was a great deal of excitement among the law and order men, weapons were brandished and we were threatened; only fear prevented an attack on us by some of them." After a few moments of further conference West surrendered, and marched his men to the door one by one to deliver up their arms. As each passed out his gun and accoutrements, he marched back into the armory. The armory being thus emptied of its power for evil, the guns and ammunition were placed in wagons and taken to the Committee rooms. About two hundred and fifty stand

of arms were thus secured from this armory. Marshal Doane then entered the armory with his aids, and informed the officers that they might retain their side-arms. In manner similar the armory at Madame Pique's Hall, corner of Sutter and Kearny streets, that of Calhoun Benham's company, near the corner of Montgomery and Pacific streets, and others were taken, making in all some two hundred prisoners and a thousand stand of arms, beside pistols, swords, and ammunition.

It was thorough work they made of it; a clean sweep. Fort Vigilance was crammed with arms and prisoners, and it taxed their commissary somewhat to provide for the capacious mouths. The friends of the prisoners came in scores to ascertain what the Committee were going to do with them. They were not serious offenders, nor was it the wish or intention of the Committee to hold them in durance. Their arrest and temporary confinement during the heat of action was deemed a wise precautionary measure. Some of them volunteered their parole; from some, testimony would be taken; all would probably be soon discharged. So the friends of chivalry were assured.

Until about ten o'clock at night the inmates of the other several armories were held confined in their own strongholds by vigilant guards. They were then brought out two by two, many of them handcuffed in pairs, formed into a line in front of the exchange building, and surrounded by a guard of one thousand foot, and one hundred cavalry with drawn sabres disposed round the infantry. When all was ready they were marched down to the Committee rooms and there confined during the night. "It was a sad sight, a sad sight in a free republican city," groans the *Herald's* reporter. "Men marched through the streets as prisoners of war whose only crime was fealty to the laws and constitution which they had sworn to uphold." Navy biscuits were given them to eat and the floor to sleep on. For this the *Herald* gives the "mercantile

junta" due credit and adds: "We regret they did not stretch their hospitality a little and have thrown in a small invoice of codfish."

Says Smiley, who had been scouring the town at the head of a company and came in late in the night hot and tired: "After the last gang of men was brought in we went into the Committee room, and the question came up, 'What shall we do with them?' The bloody reds and communes were for hanging and quartering them. Some proposed lashing, others suggested keeping them on bread and water for thirty days. Truett and I took a more conservative stand. I said, 'Gentlemen, we are all too hot. Let us be manly in our victory. Let us go home and take a rest and think about it.' We went down at ten o'clock on Sunday to decide what to do. The proposition was made that they run the gauntlet, and be paraded through the town. I moved that they be forthwith discharged, with the admonition that if found in arms again against the Committee they would suffer the severest penalties. This motion passed. I went into the room where they were all handcuffed, about hash-time, with their tin cups, taking their meal. I called to the companies and told them to bring them into line. I ordered their handcuffs taken off; and said to them that I had been requested to discharge them, and to say that if they were found in arms again against the Committee they would be subjected to the severest penalties. They marched out two abreast, and away they went. I saved them from indignities, from insult, from imprisonment, and perhaps from the cart-whip; but they gave me the blame of all they suffered; and for a year or two afterward they gave me showers of brick-bats and insulting words, and to this day bear me a grudge." Thus with the exception of two, Corporal Tice and Lieutenant Kennovan, all were permitted to depart, and were even escorted as far as Battery street by a file of vigilants.

"They looked like Falstaff's recruits," says Mr

Farwell, "the dirtiest, raggedest, most miserable looking dogs that ever were seen. We handcuffed them, two together, and marched them out and down to our head-quarters. There was a great crowd of people in the streets, and they hooted at our prisoners." And Mr Dows' dictation reads: "There were two hundred of them, I think, hangers-on, loafers, politicians, and all grades of fellows, a promiscuous and motley crowd. They were a harmless set of vagabonds." "We had a barrel of handcuffs," says Mr Watkins. And yet another: "Such a set of gallows-looking scoundrels were never collected in one crowd. Their faces alone would almost have convicted them of any crime with which they might be charged before an intelligent jury."

But where was the gallant Howard? Where all this time was the jolly giant, the genial fat man, the pompous portly general of all the chivalry forces, he who would lay the city in ashes, he who would sweep the damned pork-sellers into the bay? Where was the gentle Volney?

Immediately after the caging of the chivalry we found him at the door of the armory where he did not gain admittance. His sensitive nature was somewhat hurt at the abrupt manner of the man who denied him access to his friends; and turning from the stern door-keeper more in sorrow than in anger, he crossed over to Washington street, and turned down toward the lower side of the plaza, thinking to drop in at the other Johnsonian armory and seek consolation from Colonel West. But alas! these were evil times for great men. Volney knew he was a great man, and he took it for granted every one knew it. So he carried himself as one surcharged with greatness. It was his misfortune to be great, not his fault. He could not help it. He was born great.

See, now, as he reaches Brenham place. A score of vigilants on their way to the Blues' armory stop

and regard him intently from the north side of Washington street. Presently one cries: "There goes Terry!" and in an instant the rabble were after him. "Oh, the curse of being distinguished!" thought Howard. "Strange that blood and chivalrous bearing should be so quickly detected by base-born plebeians; all learned and courteous gentlemen look alike to them. They might take me for a worse man than Terry, but that is a bad name just now upon the street." The general's powerful brain worked rapidly, but there was no time for further thought before the crowd was upon him, insisting that he was Terry, and that he must go to the vigilance head-quarters.

It happened, at this moment, that Olney, at the head of his gallant company, was hurrying up Washington street at double quick, and approached Brenham place just in time to hear the shout, "There goes Terry!" and to see the crowd rush after him. His first thought was that the notable justice had escaped. Turning to the left and leading his battalion into Brenham place, quick as thought he threw a file of men round, and enclosed the whole body of people with Howard in their midst. The movement was executed with an ease and rapidity which would have thrilled the heart of an old soldier. There was no hesitating, bungling, nor confusion. Round that wrangling crowd they went, taking their place with military precision; and before the disputants were aware of it, they were completely fenced in.

Howard was not happy. This was a phase of greatness which he did not relish. I blush to say it, but the fact is the general was afraid, was very badly frightened. Olney says he was frightened out of his wits; but Colonel Olney forgets that all great men do not have wits. As the Citizens' Guard closed around them the rabble rushed forward and seized the general by the collar. Then Olney rode up to the centre of the group, and Howard cried out: "Olney, do you want me?"

"No, general," said Olney. "We are not after you at present." Then turning to the crowd Colonel Olney said, "That's not Terry; let him alone." Then, indeed, Howard was happy. "You never saw a man so rejoiced," said Olney.

An hour after we find the redoubtable general of all the chivalry forces standing on the corner of Clay and Front streets in a position *prodesse quam conspici*. There he stood at the vigilant outpost as near to head-quarters as he could get, while a messenger announced to the Executive that the state commander-in-chief thus stood, desirous of parley. Although the action now taken by the Committee was quite exceptional, yet in view of the facts that this man, fortunately for his enemies, did command all the state forces in California, and that it was impossible by reason of vigilant sentry to approach nearer head-quarters than he now stood, the Executive resolved, "that a committee of three be appointed to meet Volney E. Howard at his request." Consequently the president and two others met the general, and a short conference was held at the store of R. E. Brewster and Company.

Howard was a good talker, particularly good for one who had nothing to say. Talking was his forte; he could talk better than he could fight, though this he did not know. On the present occasion he had merely to say that he desired to impress upon the minds of the gentlemen members of the executive committee that they were outlaws, that they were taking upon themselves unwarrantable responsibilities, and that he would surely put them down within sixty days, as he had sent to the general government for aid, and he would have it. He stated further that David S. Terry was in the hands of the city police, that he would be taken to jail, and would be protected by his party, in which last remark the general outspoke himself. It was a fault in his otherwise matchless delivery, that he forgot entirely to pause at the

penumbra of truth, but would carry his hearers as far beyond the boundary of light and shade as they cared to go. Further than this, Howard desired to appear before the Committee in a body. The president and gentlemen of the embassy informed Major-general Volney E. Howard that they would report his words and wishes to the Committee. But lest a greater evil should come upon them the Executive immediately passed a resolution "that no communication be had with Volney E. Howard except in writing, and that the committee appointed to wait on Howard notify him of this resolution." The said committee were likewise requested to pass the general beyond the vigilant lines. Since the Sherman-Johnson misunderstanding the Committee were determined that there should be no further opportunity for prevarication on the part of the opposition, but that all communications between the respective parties should be in writing.

Now may we not indulge in a little godly boasting, in view of the behavior of officers and men that day? How orderly all were! How careful to make no arrest, or to indulge in no overt act without instructions from head-quarters! During all that wild, tumultuous time the Executive sat in their chamber and directed every movement. Invisible, omnipotent, and omniscient, their powers and intelligence bordered on that of the deity. Their forces were absolutely at their command. Had they said slay, sweep the butchering, blood-thirsty men of law from the earth, it would have been done, so great was the confidence of the men in their leaders; so all had sworn. But calm, just, and benevolent were the councils of the Executive that day. Midst all the mad excitement, never were they cooler, never were they more careful that every step should be free from mistake. They would do, if necessary die, but they would do and die for high and holy principles, for wise conduct and dis-

criminating action, and not for such deeds as the one indulged in by the learned justice of the supreme court.

And let the men be praised; those who labored hard, risked much, and could reap but comparatively little. There is a pleasure in bearing and directing power which we do not find in simple obedience. Many a general has sent other armies and his own to destruction merely for the fun of the thing. Many a multitude have rushed on destruction of their own accord merely for the fun of the thing. Such generals were cruel, and such men insane. But these shopkeepers, carpenters, and bricklayers, with wives and little ones, did not covet destruction for themselves, their families, or the city. They did not covet honor, profit, or revenge; they desired only that liberty and peace which would secure to their sons honesty, and to their daughters comely virtue. And this they were determined to have. I find in history no better or purer motives actuating men than these. If men must needs butcher men, I see no more reasonable excuse than this. And notwithstanding they were very warm on the subject, in head and heart, conscience and duty held an overwhelming restraint upon their passions, and they played the men that day, not the mob. Honor to these, the bone and sinew of San Francisco, I say; honor to those noble-hearted, hard-muscled workingmen who staked their lives that day for virtue and fair morality!

This day's deeds, by citizen soldiery scarcely six weeks organized, for order and discipline, for speed without confusion, for deep determination without passion or nervous excitement, exceed anything we find in history. It was a sight which those who witnessed never forgot. There were flashing eyes and firmly set lips, but there was no blanching. There was little talking; and for once the jokes and repartees so characteristic of Californian crowds were sunk in the solemnity of the occasion. These men could not

forget what they were arming for. The result did not trouble them; if they could not win they could die. But there was manifest with them none of that appetite for blood and battering so apparent among the fire-eating chivalry. Principle, not passion, was the sentiment that swayed every vigilant breast and nerved every vigilant arm. "Of all the field days of the whole campaign," exclaims the president with just pride; "of all that partook of brilliant military evolution and complete success, this day probably excelled."

"I should like to enlarge," says Mr Dempster, "on the very great credit deserved by the rank and file of the Vigilance Committee, for the thorough discipline and good behavior displayed by them on the day the armories were taken. I should wish to enlarge on the cheerful sacrifice of their time by laboring men and the risks they took which did not, to such an extent at least, affect the more prominent members of the Committee."

Turn now to the victim of this tragedy. As before recorded, when the blow of the lawless jurist fell on Hopkins' neck he cried, "I am stabbed; take them, vigilants!" and staggered back still holding the supreme justice's musket which he had wrenched from him. Supported by his friends, he walked into the Pennsylvania engine-house near by; physicians were summoned and the wounded man was made as comfortable as possible. As soon as the sad intelligence could be conveyed them, his wife, mother, sister, and brother came to him and lent such aid as only fond devotion can give. For several days his life hung fluttering between two worlds, the while chances of recovery were deemed against him.

Dr Cole thus speaks of the case: "I entered the building, and there I found the wounded man Hopkins, sitting on a chair bleeding profusely from the wound, and also from the mouth and nose, extremely pale and ensanguined, and immediately on my enter-

ing he fell into the arms of those surrounding him in a state of syncope from loss of blood." After describing an exceedingly dangerous operation the doctor goes on to say: "Yet it was successfully performed, the man being so far exhausted from loss of blood, however, before the commencement of the operation, that when the ligatures were about to be thrown around the vessel, he had become so weak as to induce one of the surgeons present to urge me to be as quick as possible, he having lost his pulse, and to all appearance being *in extremis.*"

Hopkins was poor material, truth compels me to say, for a first-class martyr. His wife and mother were—women. The people had raised some thirty thousand dollars for King's family, and as the two near and dear ones sat and watched the night away, Dr Cole heard the mother remark to the wife, "If Stephen dies you will be a rich widow; the Vigilance Committee will look out for that." Hopkins also heard it; for turning his face toward them he exclaimed, "Don't flatter yourselves, I am not going to die; unless," he added, *sotto voce*, "it were to see Terry hang." If the mother was mercenary, the wife was not, like Cæsar's, above suspicion; and yet Hopkins was not as jealous as Othello about it. Captain Crary tells a story of him too indecent to print. All which argues in favor of the fairness of the Committee being as ready to deal with a high criminal as with a low one, and to right as promptly the wrongs of the meanest of their servants, as their own. Probably never in the annals of the state has raged such intense excitement, both in city and in country, as on this Saturday and Sunday.

A glance at the *Herald's* editorial the morning after the *coup d'état* forces us to confess that it is the hollow hypocrisy of one who scruples at no deception to maintain a false position, who would shield crime and throw a veil of sophistry over political rottenness, hiding his ostrich head under a bush

rather than look the evil which was his ruin in the face—I say the writer of this editorial appears wilfully untruthful or insane. Yet I cannot altogether denounce Mr Nugent as one abandoned of truth and honor; rather let me think that he was honestly trying to bring himself to believe what he knew to be false.

"The last extreme of ignominy which the potentates now usurping supreme dominion could put upon the officers of the laws, the representatives of all that remains to us of the constitution of our country, has been reached. The Hon. David S. Terry, of the supreme court of California, has been arrested, and is now a close prisoner in the dungeons of the bastile. The cause of his arrest has been given elsewhere in our columns. He has been guilty of no crime." Oh shame, where is thy blush! "A sworn conservator of the public peace, he was unwilling to see a violation of that peace committed in his presence by an act of forcible abduction and kidnapping of a free citizen by the myrmidons of the present dynasty, who, not content with doing acts of lawless violence in our streets, must add the needless affront of perpetrating them in the very presence of the highest officers of the law; nay, more than this, must wantonly outrage the honor of the state and the self-respect of every good citizen by a violent and deadly assault with arms upon the person of a judge of the highest court of judicature in the state."

It is worse than time wasted to show that logic so tangle-footed will not stand upon its legs; and the thick-strewn fallacies are so shallow that a child of ordinary intelligence could scarcely be deceived by them. One more paragraph and I will pass on.

"We venture to assert that there is no jury in England or the United States which upon the evidence of this case of Judge Terry would not without leaving the box render a verdict of acquittal, and that this verdict would be received with acclamations

by the people. No man would be more willing or anxious than Judge Terry to refer himself to the tribunals of his country and to a jury of his peers for trial, to stand or fall by their judgment." Of this I have not the slightest doubt. The truth will crop out in places under the editor's pen in spite of himself. "But no; this privilege which the constitution of the United States and of this state secures to him is denied, and the humiliating spectacle is presented to Californians, of their own high officer, selected by their free, unbridled suffrages, taken by violence and escorted by bayonets of alien soldiers to the walls of a dungeon, to be tried, and, perchance, convicted without the forms of substance, and in violation of every justice, right, or even decency."

Sunday's sun rose bright upon the city. Glad hearts gathered in groups about the streets and talked of the events of yesterday. Worshippers quietly wended their way to church, and all was serene as eternal Sabbath. Let those whose breasts are on this day filled with grateful praise thank God for another bloodless victory. Let all the people praise Him. And let those noble men, those men of lofty principles and temperate practice, let them in his holy sanctuary praise God to-day for having given them grace calmly and righteously to perform their duties of yesterday under pressure of great excitement, and while in the possession of unlimited power. Great citizens of a great city, holding the fate of it in their fingers; and not a hair of the head hurt, even of the head of the monster crime which they had grappled!

CHAPTER XXIII.

PREPARATION FOR TRIAL.

False by degrees and exquisitely wrong.
Canning.

THE evening of the day of his arrest, preparations were made for the trial of Justice Terry. That the Committee hoped to make quick work of it is evident from the fact that at this meeting a motion was made and carried: "That we proceed to the trial of David S. Terry at ten o'clock A. M., June 22d, 1856, and that after the trial has commenced, no recess to exceed thirty minutes shall be taken unless for want of evidence." Not only was this rule shortly after rescinded, but the trial was several times postponed. The same rules were adopted to govern in this trial which obtained in the trial of Casey. It was further resolved, "that no vote of the executive committee inflicting the death penalty shall be binding unless passed by two thirds of those present, providing that the trial jury shall not be composed of less than twenty-six members or two thirds of this body." This was afterwards changed so that three fifths could convict.

The committee on evidence was then directed to notify the distinguished prisoner that if he had any witnesses to be summoned, he should give their names in order to prepare for trial on the following day.

Upon the loss of their arms in the *émeute* of the 21st of June, the state rulers sent up another wail to the United States authorities for aid. Boutwell seemed to be their only sympathizer, and a pretext was now offered him, in the imprisonment of Ashe,

United States naval agent, to bombard the city, which he was greatly desirous of doing.

Sunday morning the executive committee received a letter from Captain Boutwell of the United States ship *John Adams,* desiring to know how long Mr Ashe would be detained by the Committee. The Committee replied that the time for his deliverance had not been determined upon; that it was their desire to afford him all possible facilities for the performance of his official duties, and that they trusted these unavoidable circumstances would occasion no inconvenience to the commander of the *Adams*, nor delay the departure of his ship from this port.

Ashe, being a federal officer, required delicate handling. That it was an outrage for a man in the employ of the general government to mix in the local affairs of the city, and to render himself obnoxious to the better sense of the best men, the Committee keenly felt. But their object was not war with the federal government; they merely wished to flush their political sewers and go about their business. This was necessary, and to accomplish it they would wage war in any direction if necessary, but they did not deem it necessary to involve themselves in difficulties with the United States government; and as Ashe had not been arrested for any crime, on receipt of the following communication it was resolved to discharge him, which was done the day after his arrest:

"*To the Executive Committee of Vigilance:—*

"I feel innocent of having committed any crime, and it is under the belief that you do not accuse me of any that I write to ask to be allowed to go on parole. If your body should allow me this favor I do promise, as a man of honor, strictly to comply, as far as being neutral in word and action while on parole. My official business must necessarily suffer while confined here. I will of course stand in readiness to obey your call.

"Yours, with respect, R. P. Ashe, *Captain of Co. A.*"

It is somewhat singular that it seems never to have occurred to Ashe or Terry that their official business suffered while intermeddling with the local affairs of

San Francisco, or until they were incarcerated for violent interference. After taking his testimony in the case of the people against Terry, Ashe was discharged. Lieutenant Haxton of the ship *Adams* was permitted to be present while Mr Ashe was giving his testimony.

Subsequently Ashe begged to be released from his promise, complained of the hard-heartedness of the Committee, and requested a copy of his letter. Mr Ashe was informed that release from his promises to the Committee would not be granted him, and that his case would not be opened unless he surrendered himself a prisoner and so cancelled his parole.

It was in the manner and style following that Volney now spoke to the Committee:

"HEAD-QUARTERS, SAN FRANCISCO, June 21, 1856.

"*To William T. Coleman and others, styling themselves The Vigilance Committee:*

"GENTLEMEN: I learn that a person named Hopkins, claiming to act under your authority, a short time since visited the room of Judge Terry in this city, rushed upon him, and attempted to disarm him, and otherwise assaulted him. Judge Terry in self-defence was compelled to use a knife, with which he inflicted a severe, and, perhaps, a mortal wound.

"From all the circumstances, as detailed to me, I have no doubt that should Hopkins unfortunately die, it would be a case of justifiable homicide.

"I am informed that Judge Terry is now in the hands of the police, and that the house in which he is situated is surrounded by a large armed force under your orders.

"I demand that the force be withdrawn and that Judge Terry be left in the custody of the officers of the law alone; that if he be in your possession or power he be restored to the officers of the law; and I pledge myself that he shall be held in safe custody to abide his trial and all legal proceedings.

"This is the only course which will avoid an immediate collision of arms, involving the peace of the state. VOLNEY E. HOWARD,

"*Maj. Gen. Fourth Division Commanding in San Francisco.*

"B. W. LEIGH, *Acting Aid-de-camp.*"

Monday, the 23d of June, Mr A. P. Crittenden directed a letter to Terry which the Committee declined to deliver; likewise the same day Judge D. O. Shattuck addressed an appeal to the Committee on behalf of Terry. By order Judge Shattuck's messenger was informed that the Committee had no reply

to make to his letter. Mr Crittenden was admitted to Terry's cell for half an hour the next day; likewise a delegation of citizens consisting of Balie Peyton, Ashe, Thornton, Perley, Lubbock, McAllister, and Benham.

Letter from Judge Terry to the Committee:

"San Francisco, June 24th.

"*To the Executive Committee of Vigilance:*

"Gentlemen: I desired to see Mr Crittenden for the purpose amongst other things of requesting him to say to you on my behalf, that I have a wife and child dependent on me for support; that my personal affairs are complicated and involved, and as I have never confided my business to others it cannot be readily understood and settled except by myself; that if deprived of an opportunity of giving them my personal care for say two weeks, I believe no agent or admr. could or would save anything for my family, whilst I would be able in the above time to settle with all creditors and ensure to them a modest competence.

"For the purpose of ensuring to my wife and boy a support in case by your verdict they were deprived of my protection, and also to give me an opportunity of vindicating my fair name which is dearer far than life, I request that the charges against me be submitted to a legal tribunal in this city. The judges of the criminal courts here are, I believe, allowed by you to be honest in this case. You, by your power and influence over Scannell, can secure what you would consider an honest and intelligent jury, or if you distrust Scannell I will agree that the jury may be summoned by a person named by yourselves and for whose honesty you will vouch. I will interpose no delay except as above stated; will make no application for a change of venue or for bail, and will object to no juror because he is a member of your body or organization, for although at present the V. C. are naturally much incensed against me yet I will be well content after a few days give time for reflection to submit my cause to a jury composed of honest men though all may be members of the V. C.

"I will further agree that if death should ensue from the wound inflicted by me, I will at once resign my position, will make all the necessary arrangements, and if acquitted, will at once leave the state should you require it.

"I make this request solely for the reason that I do not wish to leave my family dependent on the charity of others; for myself I have sufficient fortitude to endure without flinching any fate which providence may have in store for me.

"If you do not grant the above request, I suggest that as to some of the specifications against me transpiring years since and at a distance, the witnesses are not forthcoming at this instant, but are near by in San Joaquin county, I desire time as to those charges (say two days), in which to procure those witnesses, as well as the most respectable gentlemen of Stockton from all sections of the Union to refute the aspersions upon my character.

"I submit the foregoing for your consideration. I am not personally acquainted with any of you, but am informed that your body is composed of men of honor. If so, you desire only to do justice, and I think no injustice can be done by pursuing the course I have indicated.

"Respectfully, etc., D. S. Terry."

The same day the sergeant-at-arms announced to the Executive that the deputy United States Marshal was at their outpost demanding admittance to the building. Mr Dempster waited on the marshal, and on his return reported that his demand was probably for J. R. Maloney. The police and surveillance committees were then directed to remove Maloney, and such other prisoners as they might deem expedient, from the building, preparatory to the introduction of the marshal. The marshal was then admitted. In his search for Maloney the marshal, accompanied by Mr Dempster, entered the cell of Terry, but Mr Dempster would not permit any conversation between the two. After an unavailing search the marshal retired, and Maloney was brought back to his cell. At the morning meeting of the 25th it was ordered, "that in case any writ or subpœna issues from the United States court for Judge Terry, every effort to secrete him and thus avoid collision shall be resorted to, but in no case shall the said Terry be surrendered." The 2d of July the director of police informed the Executive that he expected every moment the sheriff of Contra Costa County with a writ of habeas corpus for the body of Louis Maloney. The director of police was instructed to put Mr Maloney out of the reach of the sheriff.

In many ways Mr. Maloney was interceded for; instance the accompanying letter:

"San Francisco, July 2, 1856.

"Gentlemen:

"At the request of Mr Maloney and his friends we beg leave to submit to you the following considerations, hoping that they may be of use to him in his present circumstances. We have known Mr Maloney many years, when a resident in the Atlantic States. Of the truth of the particular charges which may have been brought against him (they not having been made public) we of course are entirely ignorant.

"During the many years we knew him upon the other side, no charge derogatory to his character as a gentleman came to our knowledge.

"From our previous knowledge of Mr Maloney we should be slow to believe that he has by criminal practices forfeited his good name and character, and brought disgrace upon his respectable relations upon the other side, whose

honor and good name are intimately bound up with his. We address you as a mere matter of justice to one many of us have known from boyhood, and with the belief that what we have written will be received in the spirit in which it is submitted and will receive at your hands the weight and consideration to which it is entitled.

"With great respect, your obedient servants,

"Jos. P. Hoge,
"Thompson Campbell,
"Thos. W. Sutherland,
"W. W. French,
"P. Béquette,
"Walter M. Rockwell,
"Jas. C. L. Wadsworth,
"Wm. Bothwell,
"Henry B. Truett.

"*To the Executive Committee of the Vigilance Committee of San Francisco.*"

Three gentlemen of the executive committee were appointed to remain near the door and attend to such outside business as might be offered in order that the trial of Terry might not be interrupted. On Wednesday John Sime informed the Committee that there certainly was an organized plan of attack upon the vigilance building to take place that night by men with side-arms.

Whereupon at the next meeting Jules David offered the following resolution, which was adopted:

"In view of the large number of prisoners now in this garrison, and of the danger of an attempt at rescue by our enemies; therefore, resolved, that the marshal be directed to keep, until the trial of D. S. Terry is concluded, within these buildings a force of not less than seventy-five men, and to post sentries at the following points: Four men at the corner of Front and Sacramento streets; two men at the corner of Battery and Sacramento streets; four men at the corner of Commercial and Front streets; four men at the corner of Davis and Commercial streets; four men at the corner of Davis and Sacramento streets; two men at the corner of California and Davis; four men at the corner of Front and California streets; two men at the corner of Front and Battery streets; two men in front of M. F. Truett's building, besides a strong guard inside of the sand-bags on Sacramento and Davis streets. Also to keep a picket of twenty-five armed men on the lower floor of this building, ready to be marched at a moment's notice to any point where they may be needed."

For such troublous times, for purposes of defence, the vigilance quarters were weak, the Committee knew they were weak. They were chosen for their

convenience of location, and intended only for temporary use. Their cause was fortified in the hearts of the people, where alone their strength lay. Blow to atoms Fort Vigilance, seize their arms and ammunition, raze to the ground every building in San Francisco; all this does not affect the cause one whit; only a slaughter of the citizens will persuade them from renovating their city. Almost any spot would serve as a rendezvous.

Every effort was made to intimidate members of the Committee; numberless letters were written and messages sent to members of the Committee, containing threats against property and life. It was their determination if possible to capture the Executive, and either hold them as hostages, or dispose of them in some other way. Certain of the Committee were so sure that attempts at capture would be made, that on going home from the Committee rooms at night they carried a cocked revolver in their hand. Others would not go home at all, but bivouacked at head-quarters. A body of Texans, they were told, were coming from the San Joaquin region to take them. They would attack them from the Bay, and so apprehensive of it were they that they blocked all the sewers by which approach to head-quarters could be made. Their plan was said to be to carry in gunpowder through the sewers and blow up the buildings.

It is said that for weeks during the trial a sharp-shooter lay hidden in the saloon on the north-east corner of Front and Sacramento streets, who in case Terry was hanged purposed with a rifle-ball to cut the rope. Whether this story is true or not it shows to what desperate straits their thoughts led them for his release.

As his last resource, the governor on the 27th of June addresses a strong appeal to Captain Boutwell, concluding thus:

"From the state of things now existing in San Francisco, and I may say in other portions of the state, I have no hesitation in saying that his life is in

imminent danger and peril from the lawless violence of said Vigilance Committee, and it is wholly beyond the civil and military power of this state to protect him from such threatened violence, without to the resort to means which would, in all probability, involve the state in civil war, a calamity greatly to be deprecated under all circumstances, and which I am most earnestly desirous shall be averted.

"Wherefore, in the name and by authority of the power vested in me as governor of the state of California, I ask at your hands, and with the power and means under your command, the protection and security of the said David S. Terry from all violence or punishment by said Committee or any other power, except such punishment as may be inflicted on him in due course of law.

"In testimony whereof, I have hereunto subscribed my name, and caused to be affixed the [L. S.] State of California, on the 27th day of June, 1856.

"J. NEELY JOHNSON."

Judge Terry also appeals to Boutwell, sending his letter by one of the friends which the Committee were lenient enough to admit to his presence.

"SAN FRANCISCO, CAL., June 28, 1856.

"SIR: I desire to inform you that I am a native-born citizen of the United States, and one of the justices of the supreme court of the state of California, and that, on the 21st day of June instant, I was seized with force and violence by an armed body of men styling themselves the Vigilance Committee, and was conveyed by them to a fort which they had erected and formidably intrenched with cannon in the heart of the city of San Francisco; and that, since that time, I have been held a prisoner in close custody, and guarded day and night by large bodies of armed men with muskets and bayonets, by order of the said Committee. I desire further to inform you that the said Committee is a powerful organization of men acting in open and armed rebellion against the lawful authorities of this state; that they have resisted by force the execution of the writ of habeas corpus, and have publicly declared, through their organs, that their will was the supreme law of the state.

"The government of the state has already made ineffectual efforts to quell this rebellion, and the traitors, emboldened by success, have already hung two men and banished a great many others, and some of their members now openly threaten to seize the forts and arsenals of the United States, as well as the ships of war in port, and secede from the federal Union.

"During my imprisonment I have suffered the indignity of being handcuffed by these rebels, my friends are denied all access to me, and all kinds of terrorism are resorted to to compel me to resign my office. I desire further to inform you that said Committee is now engaged in trying me as a criminal for attempting resistance to their authority, and also for an assault with intent to kill one of their members, whilst I acted solely in defence of my own life against their assaults on the public streets, and that I am in hourly danger of suffering an ignominious death at the hands of these traitors and assassins.

"In this emergency I invoke the protection of the flag of my country. I call on you promptly to interfere, with all the powers at your disposal, to protect my life from the impending peril. Let me remind you of the conduct of the noble and gallant Ingraham, when the life and liberty of a man only claiming to be an American citizen was concerned. From your high character, I flatter myself that this appeal will receive your early and favorable consideration.

"I am, sir, very respectfully, your obedient servant,

"DAVID S. TERRY,

"*Justice of the Supreme Court of the State of California.*"

In the supercillious tone of one born to command Captain Boutwell now writes the Committee:

"U. S. SHIP 'JOHN ADAMS,'
SAN FRANCISCO, CAL., June 28th, 1856.

"GENTLEMEN: You are either in open rebellion against the laws of your country, and in a state of war, or you are an association of American citizens combined together for the purpose of redressing an evil, real or imaginary, under a suspension of the laws of California. If you occupy the position assigned to you by Judge Shattuck, one of your ablest judges, and one who sympathizes with those who wish to reform abuses under the law, I, as an officer of the United States, request that you will deal with Judge Terry as a prisoner of war, and place him on board my ship. But if you desire to occupy the position of a party of citizens acting under a suspension of or against the law of California, you will, I think, on reflection, and from a desire to conform to the requirements of the constitution of your country, from a due regard to justice, and, above all, from a desire to avoid the shedding of American blood by American citizens, on American soil, surrender Judge Terry to the lawful authority of the state. You, gentlemen, I doubt not, are familiar with the case of Kostza. If the action of Captain Ingraham in interfering to save the life of Kostza, who was not an American citizen, met the approbation of his country, how much more necessary is it for me to use all the power at my command to save the life of a native-born American citizen, whose only offence is believed to be in his effort to carry out the law, obey the governor's proclamation, and in defence of his own life. The attack of one of the policemen of the Vigilance Committee, who perhaps would have killed the judge if the judge had not wounded his adversary, was clearly without the sanction of law. Gentlemen of the Committee, pause and reflect before you condemn to death, in secret, an American citizen, who is entitled to a public and impartial trial by a judge and jury recognized by the laws of his country. I trust you will appreciate my motives and consider my position. I most earnestly pray that some arrangement may be effected by which peace and quietude may be restored to the excited community.

"I have the honor to be, very respectfully, your obedient servant,

"E. B. BOUTWELL, *Commander.*

"*To the Executive Committee of Vigilance.*"

To this communication the captain of the *Adams* received the following reply:

"EXECUTIVE COMMITTEE CHAMBERS,
SAN FRANCISCO, June 28th, 1856.

"DEAR SIR: Your communication under even date with this, was received a short time since, and I am directed by the executive committee to state to you that its contents will receive our consideration.

"I am, sir, respectfully, your obedient servant,

"33, *Secretary.*"

After which Boutwell wrote the governor somewhat discouragingly:

"U. S. SHIP 'JOHN ADAMS,'
Off San Francisco, Cal., June 29, 1856.

"GOVERNOR: I have had the honor to receive your communication of the 27th inst., and after giving it the consideration so important a document deserves, I am sorry to be compelled to inform you that the unanimity with which the people of the city of San Francisco deprecate any interference on the part of the federal government with their affairs, would, I think, were I to interfere, do much injury, endanger the life of Judge Terry, and delay the settlement of the unhappy controversy now existing between the state government and a very large proportion of the citizens of the city of San Francisco. I understand that the condition of Mr Hopkins is improving, and, in a few days more, he may be so far recovered as no longer to afford the Vigilance Committee any excuse for keeping the judge in custody. A civil war, the greatest of horrors, ought to be avoided, if possible, and any interference of mine to obtain the person of Judge Terry, without the sanction of the Committee, may bring about one. I could destroy the city of San Francisco with the guns of the *John Adams*, but, in the ruins, friends as well as others would suffer. If I could persuade the Committee to set Judge Terry at liberty, I should be most happy to do so. If I demand his release, and they fail to give him up, I must either batter the town down or render myself ridiculous in the eyes of the world, and incur the displeasure of my government, neither of which is consonant with my present feelings. If Hopkins dies, and the Committee condemn Judge Terry to death, I will make an effort to save his life in such a manner as not to be offensive to my fellow-citizens. I have the honor to be your obedient servant,

"E. B. BOUTWELL, *Commander.*

"*His Excellency J. Neely Johnson, Governor of the State of California.*"

Boutwell, not satisfied with the somewhat curt reply of the Committee to his letter, on the 30th of June writes again reminding them of his communication of the 28th, and requesting an answer. The committee replied: "We have submitted the whole correspondence to your superior officer, Captain D. G. Farragut."

It will be remembered that prior to the organization of the committee the *Adams* had been lying at anchor at Sauzalito; and shortly after she came over and took her station at the foot of Sacramento street, where she menaced head-quarters, and whence her captain made no secret she would take great pleasure in shelling the town.

Little attention was paid at first to this movement, as the Committee had no thoughts of quarrelling with the home government; when so unexpectedly they found among their lodgers a justice of the supreme court and a United States naval agent, and the commander of the *Adams* seemed every day to grow more and more belligerent, the Committee deemed it prudent either to yield obedience or to prepare for an attack. As they never were stronger than now, and had never for a moment faltered, they did not hesitate a moment what course to adopt.

J. D. Farwell was at this time chairman of the marine committee, and as such it devolved on him to afford protection from attack from the sea. Immediately Boutwell began to threaten, a meeting was held and the following course resolved on: The plan was to place in an old hulk lying convenient two hundred vigilant sharp-shooters, picked riflemen; and the moment Boutwell opened fire, to lay this vessel alongside his ship by means of two tugs, the riflemen to begin their shooting the moment they came within range, and as soon as they reached the *Adams* to jump on board, clear the deck, and take possession of the ship. The hulk was made ready to slip her cable and fasten to the tug-boats in an instant; the tugs were kept in readiness night and day with steam up, and the riflemen were waiting ready at a moment's notice at head-quarters, so that it was estimated that half an hour at farthest would be ample time in which to silence the *Adams*, should she open fire at any hour of the night or day. If by any possibility this plan

should fail, floats were prepared with combustibles attached with chains to swing with the tide, and so drop down upon the *Adams*.

Another plan was for the committee to take possession of Alcatraz and other forts in the harbor, and bring their guns to bear upon the *Adams* in case her commander carried his threat into execution; and the generally expressed opinion was that had such an attempt been made not a man would have been left alive on board the vessel, there being among the eight thousand vigilants then under arms, many men-of-war's men and naval officers accustomed to marine war matters, to firing cannon, boarding vessels, and who were not afraid to make the attempt; and as she unquestionably would have been attacked on all sides by steam-going craft, her chances of escape would have been small.

The evil enthusiasm of Boutwell brought the Committee into communication with Farragut, who gave the Committee to understand that he disapproved of the action of Boutwell, and assured them that so long as they continued in the line at present pursued and indicated, while regretting the existing state of affairs, he would not molest them. Very properly he hoped they would terminate their work as speedily as possible, which the Committee assured him they would be only too glad to do.

Mr Coleman had long personal interviews both with Farragut and with Wool in which he explained to them the nature, origin, and purpose of the campaign, and in these interviews and explanations both officers expressed themselves well satisfied with the integrity of the Committee and the necessity of their course. Both deprecated the rash action of the opposition, and regretted the necessity that impelled the Committee into unknown depths; as officers their positions could not be compromised, but as long as it lay in their power, and so far as their influence extended, the federal government should remain neutral.

The great point with these gentlemen was whether there was in the movement anything of a political, secession, or Pacific-empire nature, and when satisfied that there was nothing of this kind, no disloyalty lurking under the guise of patriotism, as is too often the case, they were content as to the rest, and so expressed themselves.

The same day that Boutwell's letter was received by the Committee, Farwell and one or two others were despatched to Mare Island to see Farragut. All the Steam Navigation Company's boats were at the order of the Committee. Farwell took the four o'clock up-boat for Benicia, and ordered the down-boat to wait for him there. Proceeding to Mare Island the vigilants found Farragut in bed, it being by this time about twelve o'clock at night. Rousing him the messengers made known their business. They were courteously received, and wine placed before them.

Farwell then explained the character and purposes of the vigilance association, and expressed the hope that it might not come in contact with the federal authorities.

"Your navy agent arrayed himself against us with arms upon the streets," said Farwell, "and we have taken him. We do not want him, and if you think the service will suffer, we will let him go."

"No, no," exclaimed Farragut, "I don't think the service will suffer."

"Boutwell threatens to fire on us," continued Farwell, "and we hope you will interpose your authority to prevent it."

"Boutwell shall hear from me," was the captain's reply.

Captain Farragut continued to express sympathy with the Committee, although he had but little to say about it. Farwell spoke never a word about his old hulk, his two hundred riflemen, and his float of combustibles.

Shortly after Boutwell received the following letter from Farragut:

"MARE ISLAND NAVY YARD, July 1st, 1856.

"DEAR SIR: I yesterday received a communication from the Vigilance Committee enclosing a correspondence between yourself and the Committee, in relation to the release of Judge Terry, and requesting my interposition. Although I agree with you in the opinions therein expressed in relation to the constitutional points, I cannot agree that you have any right to interfere in this matter, and I so understood you to think when we parted. The constitution requires, before any interference on the part of the general government, that the legislature shall be convened, if possible, and, if it cannot be convened, then upon the application of the executive. Now, I have seen no reason why the legislature could not have been convened long since, yet it has not been done, nor has the governor taken any steps that I know of to call them together.

"In all cases within my knowledge the government of the United States has been very careful not to interfere with the domestic troubles of the states, when they were strictly domestic, and no collision was made with the laws of the United States, and they have always been studious in avoiding as much as possible a collision with state-right principles. The commentators Kent and Story agree that the fact of the reference to the president of the United States by the legislature and executive of the state is the great guarantee of state rights.

"I feel no disposition to interfere with your command, but so long as you are within the waters of my command, it becomes my duty to restrain you from doing anything to augment the very great excitement in this distracted community until we receive instructions from the government. All the facts of the case have been fully set before the government by both parties, and we must patiently await the result.

"Very respectfully, your obedient servant,

"D. G. FARRAGUT, *Commandant Mare Island.*

"*Commander E. B. Boutwell, commanding U. S. ship John Adams, California.*

"P. S.—We must not act except in case of an overt act against the United States. Yours, "D. G. F."

In answer to which Farragut received the following:

"U. S. SHIP 'JOHN ADAMS,'
Off San Francisco, Cal., July 2, 1856.

"MY DEAR SIR: I have received your letter of the first instant, and as I do not wish to 'augment the very great excitement in this distressed community' by my presence, I shall go to sea as soon as possible. I think it due to myself, however, to state, that I considered my ship, after I left the navy-yard on Mare Island, to be under the command of Commodore Mervine, or I should have consulted you in regard to the action I took to obtain the release of Judge Terry, and therefore did not mean to treat you with any disrespect;

indeed, I would have done so anyhow if it had been convenient. It is true that we concurred at one time in the opinion that we ought to wait for orders from Washington before taking any part in the San Francisco troubles; but the fact of your having consented to serve on a committee to settle the controversy between the state authorities of California and the Vigilance Committee, induced me to believe that your opinion on the subject had undergone a change. In regard to the interference of the federal officers, I am unable to discover any difference, so far as the doctrine of state right is concerned, between the position of the commander of the navy-yard at Mare Island, who acts, or consents to act, as a commissioner to settle the terms of peace, and the commander of the *John Adams*, who writes a letter to the Committee of Vigilance, asking that the life of an American citizen may not be taken in haste, and that he may be dealt with according to the laws of his country. I am a state-rights man myself, and therefore do not believe that it is any part of the creed to overturn the laws of the state, hang men without a trial by jury, and imprison a judge of the supreme court. Independent of all this, they, the committee, have interfered with the federal government in arresting the navy agent of this port, without legal authority, and in violation of the dearest rights guaranteed by the constitution of the United States to every citizen.

"In conclusion, sir, I must inform you that I have been applied to by the governor of the state, Judge Terry the prisoner himself, the collector of the port, the United States marshal of this district, and appealed to by the distressed wife of the judge, to interfere in this unhappy controversy between a portion of the people of San Francisco on the one side, and the state on the other; and what I have done has been dictated by humanity, a conscientious discharge of my duty, and I am prepared to meet the consequences.

"I am, sir, very respectfully, your obedient servant,

"E. B. Boutwell, *Commander.*"

No notice was taken of this somewhat impertinent epistle by Farragut, except that portion of it threatening to put to sea, to which reply was made as follows:

"Mare Island Navy Yard, July 3d, 1856.

"*Commander E. B. Boutwell, Commanding U. S. ship 'John Adams:'*

"Sir: You will remain where you are, until further orders from me.

"Your obedient servant,

"D. G. Farragut, *Commandant Mare Island.*"

Up to the time of the arrest of the naval agent Ashe, Farragut had sympathized with the efforts of the Vigilance Committee. But Ashe was a federal official, and his person, under whatsoever circumstances placed, must be regarded as sacred by federal commanders. No one had any respect for the gover-

nor. Farragut does not seem to have been specially pleased with Johnson, Sherman, and Terry, and with their attempt to draw General Wool into their quarrels. He had respect for the reformers, whom he believed to be engaged in a good work until they touched one of his little federal idols. They might defy the governor, and hang any one who was not of his fold. It made quite a difference as to the right of the matter, whether the person charged with bad behavior was a servant of the state of California or of the United States.

The 30th of June Farragut briefly reviewed the situation in a letter to Dobbin, secretary of the navy, stating matters in the main correctly. Although written nine days after the affray, nothing is said of the arrest of Terry, Ashe, and "our old naval storekeeper Maloney." But soon afterward, nothing having intervened to alter the situation, Farragut's mind seems to have undergone a change. Evidently he had made up his mind, as some years later was the case with regard to fighting for or against his countrymen, that in case of a conflict, right or wrong, he must be found on the side of the strongest, which unquestionably would be that of the federal authorities. Therefore when he again wrote Dobbin the 2d of July, his tone in speaking of the Vigilance Committee had somewhat changed, and his statements were not all of them correct. The correspondence that followed between Farragut, Dobbin, and Boutwell becomes lengthy and tiresome, and as it involves neither information nor principle I will for the most part pass it by. The statement regarding the capture of the chivalry that "the Vigilance Committee claim it to be a successful revolution" was not true; and the intimations that Ashe and others were released on account of the action or attitude assumed by the Mare Island commander were equally erroneous, the Committee acting, in fact, without greatly concerning themselves about him. The discharge of Ashe was

wholly voluntary on the part of the Committee, the letter from Farragut requesting them to do so not being received until after the naval agent had been set at liberty.

By the 17th of July the government party "are unable to resist the grossest outrages and excesses committed by the vigilance party." By August fears were pretended lest the "associated mobites, styling themselves a vigilance committee," should steal some four millions of government money then in San Francisco. Farragut well knew that he was misrepresenting the Committee and their acts when he wrote his government: "These people have been running riot, and setting all law and the constitution at defiance, and I did not know at what moment they would seize the money at the branch mint. The history of nearly all revolutionary movements shows such to be the result the moment the *canaille* get the upper hand." Farwell, and Case, and Coleman, Farragut had seen and corresponded with on the subject. He knew them, their past lives and their present purpose. Does he really believe that they, with Tillinghast, Seligman, Brittan, Goddard, Hale, Meyer, Tubbs, Wallace, Titcomb, Rogers, Osgood, Hutchins, and the rest, will fill their pockets at the mint, or permit others to do so? Are they fair and manly words which place such men as Selby, Flint, Baker, Pearce, Vail, Hubbell, Grisar, Taylor, Badger, Sheppard, Webb, David, with half the other respectable merchants, and bankers, and mechanics of San Francisco, in the category of *canaille?*

CHAPTER XXIV.

THE PRISONER AND THE INVALID.

On which side you please; I hear you.
Rabelais.

Egoism and patriotism are close akin, the one being for one's self and the other for one's country. Both are of divers phases, and may be admirable or detestable. There is little apart from selfishness in gods or men; but there are some species of selfishness which are less unlovely than others; indeed, there is a selfishness so refined as to be taken for the most exalted self-denial. Love and self-sacrifice are one form of egoism; hate and the sacrifice of others are another form.

There have been instances where men have apparently loved their country more than themselves; that is, where they would forego wealth, power, fame, if thereby they could the more fully benefit their country. But with most men it is found far easier to sacrifice others to their country than themselves. Whatever we or our country may be, we must uphold that right or wrong, and that is self-respect and patriotism. The patriotism of an opponent is a patriotism which has not one redeeming trait, being a subterfuge, a trade, a means of self-exaltation.

The egoism and patriotism of David S. Terry were not of this base order. He did not love himself to the hatred of all other men; he had a host of friends, for almost any one of whom he would risk his life. He did not love himself so far as to desire the supremest blessings and benefits for himself, the next

best for his friends, and for his enemies none at all. Whatever may be said with regard to his enemies, he always had friends whom, so far as lay in his power, he preferred in honor and profit to his own interests. Elsewhere he preferred himself.

Nor were his egoism and patriotism of the highest order. His loves and hates were tensely strung, so as to subordinate reason and the nobler instincts of the mind wherever were touched the objects of his solicitude. In the presence of his friends his self-regard blazed into a fiery tenderness for them; and this love he lavished on all born beneath his native skies, on all who saw as he saw, who entertained the same ideas of manhood, and translated honor and nobility of nature out of the same vehement lexicon.

Turning to the history of Texas, we find no men on earth more brave, high-spirited, and chivalrous than those who fought out, first secession from Mexico, and then independence, and a proper place in the great republic. There was everything about the conditions and environment, political and material, of the early settlers in Texas from the United States to make them strong lovers of country. Houston, Austin, and the rest were not always right, but they were generally so, and were always found battling for what they deemed the best interests of a new and independent commonwealth. And this was not so very long ago; and there was not a Texan living in 1856 on whose character the early exploits of their countrymen were not visibly stamped. Look at Jack Hays, the Texan Ranger; brilliant, fiery, fearless, but not more fearless and fiery then Terry, who likewise possessed marked talents as a jurist. Many old Californians will remember Colonel Gift, a jovial southerner, skilled in blasphemy, the very counterpart of the psalm-singing Yankee. Hays was a prominent politician as well as warrior; Terry's physical courage was in no way behind his mental ability. It was remarkable, the intensity of his nature in every direction; hence it is no

wonder that when the bent of such a mind took a certain direction, right or wrong, on any given proposition, it would follow that line to the end, though destruction and death stood in the way.

We can easily understand how, to these chivalrous southerners, the northern men of merchandise, with their prim and puritanical ways, were at times exceedingly distasteful. Besides the prejudices of class and country, the question of slavery was then at its hottest, and entered into most of the measures of the day, permitting few permanent friendships between persons from the two different sections. Like the chivalry of Spain, and the upper class of all countries where enforced labor is common, the southern gentleman looked down upon work, even shop-keeping being placed by him in that category. He might own lands and negroes, raise cotton, tobacco, and hogs; but to manufacture cloth from the cotton, to peddle out the tobacco, or cut up and smoke the swine—those were occupations more befitting the white trash, whether of the south or north. Thus we see how differently such men must ever be regarded by those who view them from different standpoints.

He was not sordid; he could not love gold strongly; while so fully absorbed by one passion, it was impossible for him hospitably to entertain all the other passions. His intellect was subtile as well as broad and solid, yet its subtility was tinctured by the same prejudice which discolored all other objects. He was a kind husband, a good father, and an honest man. He was mbued with a chivalrous sense of honor, but in his mind chivalry and honor were in their nature, as from a northern standpoint, misconstrued. The essential and fundamental qualities of both in the eyes of the bacon-venders were lacking. Chivalry, they claimed, he placed before humanity, and honor before justice. His nature was more than ordinarily fine, but his mind had been early deflected by environment. Take at that day a southern man with southern principles,

place him in antagonism with northern men and northern principles, let him have withal a love of slavery, of feudalistic force and mortal arbitrament in the determining of differences, surround him with an atmosphere of flaming love of self, of kindred, friends, and country, of strong dislike toward things foreign, especially if encountered in opposition to preconceived notions of manliness and honorable bearing; cast such a character loose in California in the days of the Inferno, give it boon companions, flatterers; give it position, influence, generous wine, and fair women—and you have a strong partisan, a man of honor and integrity among sympathizing friends; while among enemies it was impossible to foresee what at any moment might happen. It is a character glaring with inconsistencies and contradictions, a character which must needs gratify all its own law-breaking propensities, but denies under the statute any such right to others.

There must have been much that was good in Judge Terry to have made him so many warm friends. But we must remember that at that time he was the champion of a party, the representative of a powerful clique, whose instincts were, like his, displaying themselves by like exploits. Ashe and Terry in 1846 had been privates in Bellew's company of mounted rangers, under the command of Hays, of Taylor's division. "I know," says Ashe in his testimony at the trial, "that as a soldier and a patriot he has not his superior, and that as a citizen his characteristics are a love of equity, and a warm, kind, generous heart." He was proud and haughty in the presence of strangers. In the Blues' armory, just previous to his surrender, when Ashe assured him of his friendship, pledging himself to stand by him and fight it out, it is said that Terry burst into tears, and said: "No; I hate to surrender to a mob, but I have acted only in self-defence."

As one among a thousand who had a clear opinion on the subject, I may mention Edward F. Northam. Mr Northam was a native of Newport, Rhode Island.

His father was active as one of the merchants and ship-owners of that town when it ranked but third in importance among American ports. Naturally, when Mr Northam came to California he engaged in business, and when crime got the upper hand, he was active in putting it down. "Talk about the legality of the acts of the Vigilance Committee," says Mr Northam; "was the Declaration of Independence a legal document? Were Luther's theses orthodox? How many of the great reforms, reformations, and revolutions of the world which have delivered mankind from the power of evil have been legal?"

Of one of the judges of the high court of California, the Nevada *Journal* of the 11th of July writes:

"Foremost among the evils brought to light by the researches of the Vigilance Committee, is one which the community appears to have lost sight of in the hot pursuit of election frauds and kindred iniquities. An evil, too, the magnitude of which would hardly be appreciated at first glance, but which goes more directly to the foundation of society than any of those offences which have called down the just indignation of the people. We refer to the charge of favoritism as urged against our highest judiciary.

"In this tribunal and its integrity, the public look for those enunciations of law and declarations of principles in which society originated, by which rights are maintained and wrongs redressed. In these, the precedents established by past wisdom, we have the guiding star for the jurist of the present, and that certainty of the law which best secures the safety of citizens.

"But when the expounder of this law, raised as he of necessity must be from the people, carries upon the bench the prejudices of the man; whenever justice stoops to recognize either in favor or enmity to the advocate, or weighs in the scales aught but law, there is danger for the people and shame for the bench.

"Thus perverted, we can easily imagine such a state of affairs, and equally foresee its disastrous results. We can fancy a judge, surrounded by sycophants and flatterers, playing the wet-nurse to scores of legal bantlings, whose only merit is their slavish subservience, and whose fulsome adulations are the food of their idol. And rewarded by the fostering care of the bench we can picture these men crawling from beneath that ermine, which, adding authority to ignorance, and concealing neither, is itself disgraced. We can fancy these legal parasites, playing before the world upon those weaknesses which intimacy has revealed or confidence acknowledged, while real merit and ability stand distanced in the race where personal considerations outweigh justice. We can see precedent distorted or disregarded, in order to raise some pygmy or crush some man, from enmity to its advocate, and wrong exultingly vindicated from a sickly fondness for its apologist.

"Where such a state of affairs exists we can see no end to the mischief which must follow in its train. If justice cannot maintain itself upon its own

high merits, it must be purchased through its familiar, and its suitor must approach the bench as do the subjects of eastern despotism the throne of the monarch, through some effeminate eunuch who ministers to the pleasures and pampers the folly of the tyrant. By the side of this monster curse lesser evils dwindle away. An imbecile executive we can endure. Senseless legislation can be remedied. But when, to the ignorance of the framers of our laws, we add corruption in its expounders and pets in its practice, the main pillar in our governmental fabric is rotten, the rights and security of the citizen are lost, and the state totters upon the verge of ruin."

Mrs Terry was in Sacramento at the time of her husband's arrest. As soon as she learned of the unfortunate affray she came to San Francisco, and proceeded to the Committee rooms. She was at once admitted and treated with every courtesy. She was of a courage no less proud and fiery than that of her husband. Efforts had been made to induce the justice to resign his seat upon the supreme bench, and Hopkins' pulse had much to do with his in the matter. When Hopkins was low Terry would resign; when Hopkins was up Terry would "see the pork-sellers damned first." Sitting one day in her husband's cell, she said to him: "Judge Terry, I would rather see you hanged from one of those windows than to know you were compelled to resign your official position!"

A letter from Mrs Terry addressed to the public appeared in the *Herald* of July 2d. In it she complains of having been refused access to the room of her husband, and of the privilege of writing him privately. The reason she assigns I will allow her to state in her own words: "I may mistake, but I believe I am denied the happiness of seeing my husband, that my feelings may be so agonized that I shall be willing to entreat him to resign the office to which the voice of his fellow-citizens called him. I cannot tempt him to dishonor. I know my husband too well to suppose that any influence would induce him to betray a trust confided to his care. He may err in his zeal in defending that trust, but he cannot be coerced into resigning it. At the same time I know him well enough to believe that if a majority of the

people of California desire to recall the trust with which they have honored him, he will yield a prompt acquiescence to such a wish, provided it be expressed in a way sufficiently clear to satisfy reasonable men that it is the will of the majority of the whole people."

The fact is, Mrs Terry was treated by the Committee as a lady and as an afflicted wife, with the utmost politeness, and with the kindest consideration. For a time she was permitted to visit and remain with her husband as much as she pleased, but free and continued ingress and egress were deemed unsafe by the Committee, in view of the determined character of the man, and the constant efforts of his friends to effect his escape. Her insinuation that the Committee sought by adding unnecessarily to her sufferings, to effect the resignation of her husband, we may excuse. The Committee, however, were not desirous of forcing his resignation in any way. In the first place, once liberated he could claim that such an act under coercion was illegal, and so retain his seat; and in the second place, they could treat him as they did other captives if they thought fit—hang him if his victim died, and banish him from the country if he lived. I fail to see that it was a matter of much consequence to them whether he resigned or not.

During the whole period of his confinement Judge Terry was treated with every courtesy and fairness by the Committee. All reasonable requests were granted. The day after his arrest Judge Thornton and Mr Crittenden were permitted to see and converse with him for a few minutes in the presence of Messrs Arrington and Truett of the Committee; Mrs Terry was admitted without escort beyond his door. He was regarded as a high state prisoner; his late official position was never for a moment forgotten; neither was the duty of the Executive to themselves and to the people. The prisoner was permitted to see his friends and family until after trial began, and until after threats to rescue him were freely bandied, and

from that time the Committee deemed it incumbent on them to deny even Mrs Terry access to his cell. The person of Mr Terry was searched by the police after the visits of Mrs Terry, that no weapons or other implements might be left in his hands.

"It is said," remarks the *Alta* of June 25th, "that Terry is greatly affected by the position he now occupies, and deeply regrets the causes that led to his incarceration. The narrow compass of his dungeon, and the close proximity of a number of armed soldiers, are not calculated to give one of his proud, spirited feeling very agreeable sensations. His confinement will furnish him an opportunity for mature reflection upon his unjustifiable course for the last month, and doubtless will cause him to regret the unwise step he has taken. Great stress is placed upon the fact that he may have been assaulted first by Mr Hopkins before he gave the deadly blow to his victim, and for this reason his friends claim that he is guiltless. It should be remembered that his offence does not consist merely in the attack upon Mr Hopkins, but he is justly censured and properly held responsible not only for the blood of Hopkins, but his continued and uncalled for warfare upon the Committee, the issuance of the worthless but mischief-making proclamation, as well as the illegal writ of habeas corpus, and the collection of arms in our midst, to be used against those who oppose his will. These acts, as well as his continual presence in this city, ready to encourage and bring on a collision between the parties, are chargeable to him, and for which he will be held responsible. It was rumored last evening and generally believed by his friends, that Judge Terry would in all probability tender his resignation as associate justice of the supreme court, during the night. We trust this rumor is not without some foundation, as it must be evident to all that he can never exercise the functions of his office again to the satisfaction of the people of the state. He has already forfeited his moral right

to the office, and the sooner he lays aside the judicial robes the better it will be. It cannot be supposed, however, that this step can have any influence upon the action of those who now hold him in custody. He will be tried upon the merits or demerits of his criminal conduct, regardless of any and all official honors. It was also said that his friends had pledged that if released now, he would leave the state voluntarily; but little credence could be given to this proposition."

"The difficulty at San Francisco is approaching a crisis," says the Nevada *Journal* of June 27th. "From gentlemen who have just returned from the bay, we learn that the Vigilance Committee are sorely tried. Their moral courage and integrity are put to the fullest test. It is undeniable that the outside pressure is almost overwhelming. The passions of the crowd are excited and demand blood to appease them. The life of Judge Terry is represented as hanging by a single hair. Outsiders are clamorous for his execution. If the Vigilance Committee stand up against the storm which now beats around them, and deal out impartial justice, unawed by the official station of their prisoner, or the danger from an infuriated populace, they will become the heroes of the day. Thus far, all is well. In them the people have unlimited confidence. They must not prove false to the trust reposed in them. The good sense and moderation of the whole state is invoked in this emergency. San Francisco rests upon a mine to which Governor Johnson and his demoniac crew are anxious to apply the torch. Why cannot some of the presses of the unhappy city be more mild, more rational, and more soothing in their appeals to an excited populace? They are adding vim to the whirlwind instead of tempering the elements. Moderation on both sides would soon restore order to its wonted channels once again, which is a consummation devoutly to be wished. The public mind has been feverish long enough and needs repose."

Had Hopkins been king of America he could not have been better attended. For upon his living or dying hinged much; more than the life of Terry hinged upon it, for that were not much. The Vigilance Committee, from the assumption of doubtful powers, might have been led into excesses, and so brought to shipwreck. Broderick would have remained longer in the flesh had Hopkins died. But Terry did not want him to die, nor Terry's friends, neither did the Committee, nor yet Hopkins, though Hopkins for a consideration would have remitted Terry's punishment, and Hopkins' wife and mother for a consideration, peradventure, would not mourn their lives away had Hopkins died. Better to be a rich widow than a poor wife.

A Committee was appointed to take charge of the invalid that he should not die. The house of the Pennsylvania Engine Company, number twelve, was furnished fit for royalty. The carriages were taken out, beds and carpets spread, and all the comforts and conveniences of the sick-room arranged. The street was closed, the sidewalk muffled, and guards marched solemnly to and fro. But however careful the vigilants were of Hopkins' life, the men of law and order were infinitely more so. Says Dr Cole, who had entire charge not only of the case but of the premises and the officers in attendance: "So great was the interest felt in Judge Terry's fate by his friends in every part of the state, that I was hourly in receipt of telegrams from medical men and laymen from every quarter, particularly from Stockton, inquiring as to Hopkins' condition, and the probable result of the case; and I know that there was an organization brought into existence after the stabbing of Hopkins, composed of the friends of Judge Terry who were sworn in the event of Hopkins' death to take my life, under the conviction that I was the employé of the Vigilance Committee, and that in order to establish a precedent and principle from the Committee's standpoint I would sacrifice

the life of Hopkins." Instead of the Committee desiring Hopkins' death, Cole goes on to say: "I was daily visited by the several members of the executive committee, and on every interview with them the greatest possible anxiety was expressed in that direction, each seeming to recognize the magnitude and importance of a result which it was desirable by every possible means to avert."

Dr Cole was called before the Executive for his opinion upon the condition of Hopkins. He informed the Committee that the wound would have proved fatal in five minutes but for the operation, and that the critical period would be from the third day to the twelfth day.

The law and order men seemed fully to realize the importance of Hopkins' recovery. "I will give you ten thousand dollars to save that man's life," said a friend of Terry's to Dr Cole on one occasion, while the invalid was beginning to convalesce. During Hopkins' illness a bulletin of his condition was posted daily, round which eagerly crowded alike friends and foes.

The uncertainty of Hopkins' recovery, the efforts of Terry's friends, and pressing duties of the Executive greatly retarded the trial. Both sides seemed backward about bringing it to a termination. The Committee did not wish to hang or banish the justice of the supreme court, and the justice did not wish to be hanged or banished. It was a business distasteful to both sides.

The 5th of July the American Theatre Company tendered Hopkins a benefit while upon his sick-bed. About the coolest incident of this trial was his appearance in person before the Executive on the 5th of August, asking an interview with Terry for the purpose of arranging the whole matter on a money basis! It is unnecessary to say that the application of Mr Hopkins was denied. Subsequently he applied to the Committee for relief.

Judge D. O. Shattuck of the superior court, a pure and upright man, whose integrity neither party called in question, thus sums up a lengthy argument in the case of Judge Terry, published in the journals of June 27th:

"If my reasoning is correct it has demonstrated two things: first, that in the case of the death of Hopkins, which God in his mercy prevent, Judge Terry is not guilty of murder, for the blow was not struck feloniously and with malice aforethought; secondly, that we are in a state of war, that there was a legal armed force organized against the Committee, that a portion of that legal armed organization, with which Judge Terry was at that time lawfully acting, was set upon by a squad of the forces of the Committee, and in that collision of forces the blow was struck, and therefore if death, it is considered as the fate of war, and not individual crime."

This is by far the fairest opinion delivered in the extenuation of Terry's guilt. Judge Shattuck was an able jurist, and honest in every word he said, yet it seems to me he begs the whole question. The Vigilance Committee was organized for the very purpose of setting aside such legal technicalities as "feloniously struck" and "malice aforethought." Perhaps Terry did not mean to kill Hopkins. It is difficult to say what he meant to do. But without a legal opinion from a learned judge, any of us may know that if Judge Terry had been exceedingly anxious to save Hopkins' life he would have kept that knife out of his neck. It was for this, I say, that the Vigilance Committee organized, to prevent men of violence from shielding themselves under the broad covering of legal technicalities.

As for the other excuse, that the country was in a state of war, in the ordinary meaning of the term, it was not true. In one sense there was war between the community and crime, there was no war between the people and the state. The proposition is a fallacy on the face of it. Johnson's proclamation, unless it were technically in accordance with such legal shifts and subterfuges as this Committee do not recognize, does not make war. If the authorities would attend to their own affairs, and let the people in their sover-

eign authority exercise their sovereign will as they had the right to do in their work of exterminating crime, there would have been no trouble. The people were the master, and not Johnson. The only logical deduction from Judge Shattuck's line of argument would be that the people of San Francisco—and indeed you may say of California, for nine tenths of the people of the state were on that side—had declared war against themselves, were in open revolt against themselves, and were fighting themselves, which reasoning is simply *reductio ad absurdum.* It would seem that a jurist can no more follow a train of reasoning without marshalling to his support statutes, forms, and constitutions, than a religionist can let fly his thoughts unhampered by creeds and written revelations.

Judge Shattuck's paper on the whole is a singular document. Being lengthy, and the salient points already given, it is not necessary here to reproduce it. It was only one out of hundreds by able jurists and writers who took up their pens as champions for one side or the other. This of Judge Shattuck's commanded more attention than almost any other, not that it was the most able, but from the general respect entertained for the author. Judge Shattuck was known to be an honest man, was known to be incapable of uttering other than his candid views, and was known to be no hot-headed partisan. His object was to throw oil upon the troubled waters, to calm the public mind, and to save Terry's life in case Hopkins died. And so far its tone was most excellent, though his law and logic would not stand the test of close scrutiny. His assumption of war and the meeting of Hopkins and Terry as two combatants was simply ridiculous. Hopkins was told to arrest a man, and not to kill one.

At the Saturday evening session, June 28th, Mr Dempster made the following motion, which was carried: "That the secretary be and is hereby in-

structed to detail five members from this Committee each night, beginning with the first names entered upon our roll and continuing regularly as there written, to remain in our quarters all night, and that the members so named if present shall remain themselves or procure substitutes. Also, that the secretary shall put upon the bulletin-board the names of members to be thus detailed as far in advance as possible. Also, that any member who shall neglect to remain all night when his turn comes, without seeing that a substitute takes his place, shall be considered guilty of gross neglect, and subject to such punishment as may be awarded hereafter." W. T. Coleman, C. J. Dempster, A. L. Tubbs, M. F. Truett, and N. O. Arrington were detailed for duty at the Committee rooms, under this order, the first night.

The 28th of June the *Herald* comments on the affairs of the day before in its usual strain. "The city is still in a state of siege," it says. "Fort Gunnybags still frowns defiance upon the liberty of the people. Our streets are daily and nightly filled with armed men, who, associated with mercenary troops and condemned muskets, cast a gloomy shadow upon the light of liberty. The cap of Gessler has been erected on a Vigilance Committee pole, and we must all bow down to it and shout lustily, 'Long live the Inquisition.' Business has been to a great extent paralyzed; the social relations have been severed; there is no good feeling extant; the worst passions have been aroused and the masses see nothing but red."

What will be done with Judge Terry? was now the absorbing question. Day after day the law and order journals published columns of affidavits which made the sanguinary jurist a much abused man and a hero. He was not only innocent of crime, but he was to be honored for his action. In defence of the law he drew his dagger; in defence of himself he plunged it into an assailant. Public opinion, however, was little influenced by all this, and the popular will seemed

to demand that even-handed justice should be dealt this man equally with his less intelligent tools.

The friends of Judge Terry did everything in their power to procure his release. Howard importuned Coleman and stumped the interior, the *Herald* and the *Sun* editors raved like men in delirium, Johnson threatened to pour the forces of the federal government into San Francisco Bay inside of ninety days, and the lawyer outlaws would pluralize each life of the whole eight thousand that the penalty of every crime in the long catalogue which they had made might be visited upon them.

CHAPTER XXV.

THE TRIAL.

He hath resisted law,
And therefore law shall scorn him further trial
Than the severity of the public power,
Which he so sets at naught.

Coriolanus.

It was a severe ordeal for prisoners when brought before the grim tribunal and put on trial for their lives. Trepidation invariably broke them down. Far more imposing than any ordinary court of justice it struck terror into the hearts of the guilty. The accused brought thither for trial could but feel himself cut off from all those means of escape offered him by kind indulgent law. Terry, master of court hirelings and court machinery, could not but here feel himself in the presence of his masters. He was overpowered by a sense of the power in whose presence he stood. It was so different from anything he had ever before seen or thought of. It was an awful reality. These men were now no damned mob, but the undamned power of the Almighty upon those who fell into their hands, and a certain respect for them arose in his mind. Bravado was of no avail here. He was humble everywhere, and in his cell he wept a few proud tears. When brought within the Executive chamber by the sergeant-at-arms, he faltered for a moment only. All eyes were on him, and they seemed all-searching like those of omniscience. He felt his soul laid bare as on the judgment-day. But quickly recovering himself he approached his seat with a firm step and dignified mien, and ad-

dressing the president said: "I recognize your authority, and am ready to proceed with the trial."

For all that Terry came to his trial in a very nervous state of mind. He could not but feel, as he would say, that he had been indiscreet. He had damaged the cause he sought to aid, had given his enemies a victory, and had placed his person in their power. But more than this, he now was made to fear those whom before he had only hated; he was now made to feel the strength of those whom before he had despised. Caged by the mob, as he termed the populace who surrounded the Blues' armory, he burst into tears; brought before a tribunal of just men he was cowed. The lion's heart of the learned judge sank within him; as viewed by him, these men of vigilance were desperate characters, with whom hanging was easy, while the law was no impediment to any course their fancy might dictate. At first he seemed suspicious that he would not be fairly dealt with. His mind could scarcely conceive of a company of money-makers actuated by love of right alone, or a company of pork-sellers inspired by a love of justice which lifted them above the reach of any other impulse or appetite.

But as the trial progressed, he found that they could be fair; that in sitting in judgment upon their archenemy their love of justice was even then greater than the triumph of revenge. His keen mind sharpened by the sense of danger very soon saw the fairness of the rulings in which the prisoner was given the benefit of every doubt and the universal desire to gain the simple truth unbiassed by party or circumstance. All the witnesses he could name were sent for from different parts of the state, the expenses of some of whom were paid by the Committee. From the beginning to the end he had the benefit of his experience in conducting his case, and at the conclusion of the testimony pleaded his own case and made a written statement. Nothing could have been fairer.

From the first he saw that the Committee were in earnest, and as a rule his conduct was respectful. Once or twice the tribunal found it necessary to call him to order.

On the 23d of June Judge Terry wrote the Committee appealing for delay in his trial, which appeal the Committee refused to consider. They also received a letter from Ashe requesting permission to publish a card, the tendency of which would be to place his friend Terry right before the community; whereupon Mr Smiley moved that the writer "be informed that any publication by him in relation to the acts of the Committee of Vigilance would be esteemed a forfeiture of his parole."

Miers F. Truett was appointed counsel for Terry, with permission of free access to his cell, and power to summon witnesses. It was then ordered that the trial be postponed till Wednesday, the 25th, at one o'clock, at which time it was again postponed, and so continued for two days more. Meanwhile Mr Thomas J. L. Smiley, who had been appointed attorney for the prosecution, was busy in collecting evidence. No member, even of the executive committee, was permitted to see or to speak to the prisoner privately except by special permission.

Specific charges were then preferred. First, David S. Terry was charged with resisting by violence the officers of the Committee of Vigilance while in the discharge of duty. Second, with committing an assault with a deadly weapon with intent to kill Sterling A. Hopkins, a police officer of the Committee of Vigilance on the 21st day of June, 1856. Third, with divers breaches of the peace and attack on citizens—on Mr Evans of Stockton; on Mr Broadhouse while in the court-house at Stockton; on Mr King, at the charter election in Stockton; on J. H. Purdy in the city of San Francisco, in resisting a writ of habeas corpus, by which William Roach escaped from the custody of the law, and the infant heirs of the San-

chez family were defrauded of their rights. These all in the year 1853.

In none of the cases had there been trial or punishment. Offences enumerated in the third charge were regarded by the Executive as secondary in importance to the assault on Hopkins; but the Committee considered they had the right to take cognizance of all recent offences committed by their prisoner, particularly of his resistance of the writ of habeas corpus for fraudulent purposes, when he had raised such a hue and cry over the alleged resistance by the Committee, for praiseworthy purposes, of a writ issued by him.

On Friday the 27th, at a quarter to eleven, the prisoner David S. Terry, charged with the murder or attempted murder of Sterling A. Hopkins, was brought before the Executive sitting as a jury, President Coleman in the chair, and placed on trial. The following order was pursued: First, statements of prosecution; second, evidence for prosecution; third, statements of defence; fourth, evidence for defence; fifth, speech of counsel for defence; sixth, speech of prisoner if he desire it; seventh, closing speech of prosecuting attorney. Mr Smiley read the charge, and the prisoner was then asked if he was guilty or not guilty. The prisoner refused to plead until assured that there was no outside pressure bearing upon the Committee. Upon receiving such assurance he said, "I am not guilty of any crime whatever." At ten minutes before eleven Mr Smiley began his opening address, closing at five minutes past eleven, concluding it in these words: "Gentlemen of the Committee, in trying Judge Terry you try yourselves; in sitting here in judgment on his acts, you sit in judgment on your own; if he be innocent you are guilty, if he escape punishment you should be punished."

The defence was based chiefly on an assured right as a sworn officer of the law to resist the acts of a lawless body. In the matter of Hopkins he claimed to have acted in self-defence.

Testimony was then taken, forty witnesses being examined for the prosecution and about eighty for the defence. It was ordered that the evidence of Hopkins under oath should be taken in writing by Doctor Cole and a clerk, to be obtained by a series of questions mutually agreed upon by the respective counsel for the prosecution and the defence, and that such testimony attested by Doctor Cole should be received as evidence. Orders were issued to refuse all persons, of whatever class, admittance to the presence of Hopkins.

The trial was now continued from day to day, with sessions morning and evening, from thirty to forty members of the Executive being in attendance.

While Terry's trial was going on in the Committee rooms the law and order journals were publishing all the evidence they could collect in his favor and inditing editorials in his behalf.

Singular was their line of argument. Terry as supreme justice was in the path of duty in defending Maloney from arrest, said they. In answer they were told that the office of judge was to try criminals, not to prosecute or defend them, and Terry, as the member of the supreme state tribunal who would probably be called upon to decide those legal issues which would grow out of the conflict, should have remained at home, kept his mind in condition to weigh out justice evenly to both parties, and not have descended from the bench and mingled in the fray like any layman. Terry acted purely in self-defence, they said. I hardly see how this could be when Hopkins was not seeking Terry, when Hopkins was striving to avoid Terry and lay hold upon another. And when Terry levelled his gun at him Hopkins only grasped it and made no effort to kill his assailant. It might be regarded as equivalent to self-defence, in the light of protecting or defending a friend in danger, a friend being more to one than one's self.

It was a long, laborious business, this trial, weari-

some in its details and unsatisfactory in its results. "Terry was an unexpected, unwelcome, and undesired tenant of our quarters," remarks Coleman, "thrust upon us with all the weight of his office, all the embarrassment of his case which Hopkins' protracted illness and life gave it, all the renewed and concentrated opposition of our antagonists, revived and increased by the addition of many of his personal friends, and by his official position."

The general verdict of the community was, if Hopkins died Terry should be hanged, if Hopkins lived Terry should be banished.

In Terry the Vigilance Committee had their largest elephant, unwieldy, expensive, and in every way undesirable. As long as Hopkins lay at the point of death, or in a critical condition, their way was comparatively clear; but when, as the trial dragged its weary length, he began to recover, and in time was up and about the streets, now more than ever were the Executive nonplussed. They had hoped to disband soon and to rest from their responsibilities; they had hoped soon to be able to devote their days to their business and their nights to their families; but upon them in an evil moment had dropped this great and unexpected burden, which complicated their position and increased their labors and liabilities fourfold.

During this period Terry and his friends were very humble. To deliver him from durance they would promise anything; he should resign his position, leave the state, and give no more trouble. The wives of members of the executive committee were called upon by ladies, evidently acting in concert, who, under cover of friendly visit, would enlarge on the equity of Terry's case. Social efforts of every kind were repeatedly undertaken to work on the minds of the Executive who were his judges. "Day after day," says Mr Dempster, "gentlemen used to come into my office, as they went to those of others, some of whom were friends, some mere passing acquaintances, and

even others whom I then met for the first time, and either at once began to speak of Terry or by degrees led the conversation to that point. I have never known or heard of a case where a man's friends worked so hard in his behalf. My most intimate associate at the time, a merchant whose place of business was next my own, a man in whose integrity and desire for the public good I had implicit faith, brought several gentlemen to see me asking a discussion on the subject. And they presented their views very forcibly. I listened with attention; but becoming wearied by the increasing efforts to argue the matter out of court, as it were—for I considered it was not the proper place—I was determined to put an end, at once and forever, to these repeated concerted attempts. So that finally I said to them, that during my whole life I had been an admirer of strictly impartial justice, that I believed that no human being existed who did not admire this, to my mind, the most revered attribute of the deity. I had joined the Vigilance Committee from a firm conviction that even-handed justice should be meted out to all men. We had punished weak men of little power and without friends, and the same justice should be done to Judge Terry, the more so because of his powerful friends and almost universal influence. I concluded by saying that should Hopkins die, and were every other member of the Vigilance Committee to fail to do justice, I would myself inflict upon Judge Terry the penalty which I considered would be his due, and this even though I knew that such a moment would also be my last. After that I was troubled no more."

"Every effort, every device, artifice, pretext, persuasion, and power of his friends, old and new," says Coleman, "was brought to bear at once on every separate individual member of the Committee, on every part of its organization that they thought could be reached by influence social, moral, religious, political, public, private, sectional, general, and every other

kind; and when they found the Executive firm and unwavering, the delegates even more so, because not inclined, or feeling impelled to show the courtesy, indulgence, and forbearance which the former body did, where indulgence was expected, the leaders in this movement then tried to sow dissension and to create divisions in every part of the organization that they could, and it may well be conceived how much trouble could thus be given to us by strong, zealous, numerous influential people who under the circumstances deemed any expedient, any policy, any tactics or effort justifiable."

"It was a spar on his part for time," as Smiley puts it, "and for any influence on earth that could be brought to bear, a spar on his part in the beginning for every concession to save his life, especially while Hopkins lay at the point of death." All the ordinary facts which might have been taken for granted were vigorously fought. The first attempt to arrest Maloney in Terry's presence; Terry's running up Kearny street to Jackson, and to Bartlett's alley; Hopkins' seizure of his weapon and Terry's stabbing him—the whole of these details were fought inch by inch; when all the time the truth was clearly apparent that Terry left his judicial seat at Sacramento and came to San Francisco for the express purpose of precipitating a bloody issue in a local quarrel, and mingling in a street affray, to shield a tool of his party he interposed himself between him and Hopkins; the latter then endeavored to thrust Terry aside, and Terry stabbed him.

"That the cause for the organization of the Vigilance Committee was just and sufficient," says the Nevada *Journal* of the 4th of July, "the popular voice of the people has decided. That Casey and Cora richly deserved their ignoble fate, few have the hardihood to deny. Had the Vigilance Committee accomplished but this act of retributive justice the whole state would have applauded the deed, as the

whole state did. Few would have been found to deplore, and few to denounce the precedent set for coming time; the masses, though they might regret the necessity for setting at naught the forms of law, would have rejoiced that vice by some process, illicit though it might be, had at last found its punishment.

"The act of banishing a score of individuals at one time is more questionable, because the crimes of each are not so apparent to the people, and because by condemning so many there was a reasonable possibility that one innocent man might suffer with the guilty. Still the notorious reputation of the expatriated and their associations, from which their characters became established, was convincing proof to every one not wed irrevocably to law however much violated, or order though a misnomer for anarchy, that they were unfit to mingle in a community whose moral sense they had outraged, and whose laws they had defied. Though the banishment of these men was, as we have said before, a more questionable act than the execution of the murderers, whose guilt was open and deniable by none, the people were glad that the state was purged of such dishonorable characters.

"Again when he who should wear ermine unsoiled committed the *faux pas* of folly and indiscretion of going to San Francisco, leaving the seat of justice to mingle and take part in grave proceedings, upon which he would doubtless be called to pass judgment in his official capacity; and when, worse than all, in attempting to perform impossibilities he sheathed a dagger in the flesh of an officer performing duties in accordance with popular authority, and was taken into custody by the same authority, public sentiment condemned the judge and demanded justice from its acknowledged dispensers. An *ex parte* statement of the unfortunate affair flashed across the wires, and the mountains echoed back the voice of the excited multitude in San Francisco, for redress and retribution. But another and counter statement has gone

forth which is entitled to some consideration. Keeping in view the excitement of the times, both versions of the story should, perhaps, be taken with allowance, for the mediums through which the two parties saw the tragedy were liable to distortion and coloring. At all events the evidence which has been brought to light is conflicting and unsatisfactory. The Vigilance Committee arose to vindicate the majesty of violated law, and to ensure its future observance, and we demand of any gentleman versed in the law of evidence, if enough has been furnished the public to convict David S. Terry by the law, in whose sacred defence the Vigilance Committee stand, of a capital crime. It is far from us to plead the high official station of the prisoner as an interposer for mercy in his behalf. It cannot extenuate a crime. All the people ask is impartial justice, meted out inflexibly alike to the high and the low. They do not desire nor will they sanction the enforcement of the bloody code of Draco. The time for *lex talionis* has passed away. If the imprisoned officer had done a deed worthy of death in the eyes of the enlightened nations, let him suffer like any malefactor. But the tumultuous murmurings and demands without, like the winds of yore around the cave of Æolus, should not swerve the executive committee one hair from the line of justice as defined by the statutes whose purity and efficiency they are constituted to restore."

The fourth of July passed quietly. In the enjoyment of their national anniversary the citizens of San Francisco felt that they were indeed free and independent; felt that their city was free from the misrule of political demagogues, was purged of moral disease which had so lately threatened death, and that they were men, fit descendants of those sires of the great Revolution who eighty years before had in like manner struggled for the right and conquered a peace. There was a desire on the part of some for a grand military display by the Vigilance Committee, but

with their usual good sense and moderation the Executive objected. Theirs was no organization for vain or triumphant ostentation, but for solemn duty, which once performed they would gladly retire, and rest for their reward in the consciousness of their rectitude rather than in plaudits and public praise.

Several persons now attempted an adjustment of the difficulties between the governor and the Committee, and Terry was asked to lend his aid by resigning. When it was thought Hopkins would die Terry would gladly have resigned, and have left the state, had he been permitted to do so, but now that Hopkins was improving Terry stoutly swore that he would never leave the Committee rooms unless as justice of the supreme court.

Overtures were made by deputations of citizens, to which courteous attention was given. In one of these, headed by Judge Munson, negotiations proceeded so far as to protocol the adjustment of difficulties upon the following basis: The Committee should consider the objects for which they had organized as accomplished, first, when the two justices of the supreme court, Murray and Terry, should have resigned, and have departed the state; secondly, when all the officers of San Francisco county should have vacated their positions; thirdly, when all the prisoners in the possession of the Committee, and such characters as they desired to expel, had left the state never to return; and, fourthly, it should not be deemed a breach of faith, but a duty, to enforce sentence on any banished criminal who should return. These terms were not accepted; indeed, they were scarcely practicable, and were only another way of replying to the numerous overtures made to them in effect, that it was impossible for them to do otherwise than to conclude their work as originally determined.

Upon the failure of all efforts at reconciliation threats of rescue were renewed, which tended only to increased vigilance on the part of the Committee. The

night before his trial began Terry was removed to another cell, and the password was changed.

The 10th of July the condition of Mr Hopkins was more critical. Says the *Bulletin* next day: "The friends of the supreme judge who have counselled him to the unwise, arrogant course he has taken during the past few days may now cease their self-gratulating utterances, and will probably recede from the insolent attitude they have taken. We have no wish to renew popular excitement on this subject; but it is our duty to repeat what we have heretofore said, that if Hopkins dies Terry must meet the" consequences, whatever they may be.

There were all sorts of opinions entertained and expressed, both within and without the Committee. Some believed him as much to blame as if his knife had pierced the police captain's heart, though evidently it was not the intention of the judge to go quite so far. Others did not censure him for cutting Hopkins, but for stepping from his judicial bench to interfere in purely local affairs. Others blamed him not at all, taking up the old line of argument that it was done in self-defence, and even in the line of duty as a peace-officer.

Loud calls were now made by the people for the governor to resign, and also to withdraw his proclamation. If ever the necessity existed for issuing it, that necessity had long since passed. The popular party had achieved a signal triumph; the army of the opposition had melted into air. The city was quiet and orderly, the functions of government were untrammelled by insurrectionists, if any such ever existed. "No one anticipates civil war now," they argued. "Where then is the necessity for the proclamation and the action taken under it? Have not facts clearly shown that both were unnecessary, both fruitless, save in increasing the debt of the state? Why, then, is not that absurd manifesto withdrawn? Why will the executive persist in maintaining his

shameful position? Let him retrace his steps, let him withdraw his proclamation, let him manifest his gratitude that his folly has not occasioned civil war, and for the rest of his term of office, if he will persist in retaining office contrary to the wish of those who elected him, let him so conduct himself as in a measure to redeem the reputation he once enjoyed."

A grand mass meeting was held in front of Montgomery block the evening of July 13th, for the purpose of calling forth public sentiment as to the necessity of an immediate resignation of all the then existing city and county officers. These officers were illegally elected, the people said, many of them were guilty of infamous practices, and none of them enjoyed the confidence of the community. The executive committee of vigilance had instituted an investigation into the affairs of the respective municipal offices, and a lengthy report of the result appeared in the journals of the day.

They examined the financial system of the municipality, and ascertained that the city had been extravagant, living far beyond its means. The county was burdened with a debt of half a million of dollars, and warrants depreciated to less than half their par value. This was chargeable to the board of supervisors. They found that the county had been grossly swindled; corruption was rank and everywhere existent in and about the city hall.

It was therefore resolved that written requests to resign should be directed to Judge Freelon, Mayor Van Ness, Sheriff Scannell, District Attorney Byrne, County Clerk Hayes, Recorder Kohler, Treasurer Woods, Assessor Stillman, Surveyor Gardner, Coroner Kent, School Superintendent Pelton, and Justices Ryan, Chamberlain, and Castree. This was done; and the answers from the officials were in almost every instance a positive refusal to resign. An adjourned meeting hinted at a resort to force to drive them from office. "Let the Vigilance Committee shut the doors of the city hall and take the keys,"

suggested one. "We are eight thousand devoted men; we can keep the old rookery hermetically sealed, and we will do it!" Popular sovereignty and the people as the source of all power were the doctrines held by that assemblage; and the refusal of the officials to resign in obedience to the popular demand, which resignation in their opinion would have had a powerful tendency toward the establishment of tranquillity, was deplored.

I cannot but regard this action as injudicious and hurtful to the popular cause. It was hardly to be supposed that these officials would resign; to do so would be a tacit acknowledgment on their part of the justice of the popular demand. And to take a step which was sure to result in humiliating defeat could only bring into contempt the actors and weaken their cause.

Although there were many members of the Vigilance Committee prominent in this demonstration, it was not a Vigilance Committee movement. It bears no impress of that sound judgment, that calm and dignified discrimination, and that swift and terrible action when once the determination to act was formed, that characterized all the doings of the executive committee. Far too wise were they to risk prestige in making demands where they had not the power to enforce obedience.

The never failing bugbear of habeas corpus was as a matter of course resorted to. In almost every instance the Committee was informed that a writ was to be served before the officer came with it. For example, the record of 21st July states that "Mr George R. Ward made a verbal statement of a conversation had with a gentleman of this city in relation to a writ of habeas corpus which he said would be issued this evening." The chair then appointed Messrs Dempster and Farwell a committee to obtain legal advice in relation to the writ of habeas corpus. A committee of three, Dows, Burns, and Goddard, was then

appointed to take proper measures to secrete the prisoner Terry, in case the service of a writ of habeas corpus should be attempted.

In a letter to B. W. Leigh dated Sacramento, July 16th, 1856, General Howard discloses the plan of the law and order faction concerning Terry. "I agree with you," he says, "that the safest course is to apply for a writ of *habeas corpus ad testificandum* for Terry. He will be a necessary witness in the case of Durkee, as he knows all about the requisition by the governor." Durkee had been arrested for piracy, a full account of which will be given hereafter. The cunning Howard! Has he forgotten the "non-come-at-ibus" return upon the writ for Maloney, who also was wanted for a witness in the Durkee case? Here is the story:

"My friend," said a Paul Pry of the gubernatorial order to a member of the Vigilance Committee one day, "I do not wish to be inquisitive, nor would I for the world get you into trouble, but I confess to a strong desire to know how you stow away prisoners so that when a habeas corpus comes no shadow of them can be found."

"Well," replied the vigilant, "I hardly think I should tell you; but will you promise secrecy?"

"Most profound."

"Know then that when the Executive scent a service they raise the false bottom and side slide of the patent ballot-box, clap these men in one after another, and make a return on the writ of habeas corpus, of non-come-at-ibus in ballot-box-ibus!"

CHAPTER XXVI.

JOHNSON AND HIS GENTLE GENERAL.

Es ist nichts schrecklicher als eine thätige Unwissenheit.
Goethe.

Early in July Governor Johnson so far conquered his pride as to make overtures of reconciliation to the executive committee, although the manner of it was not as manly as might have been. It happened in this wise: His request to General Wool for United States aid had been refused; his proclamation had been treated with indifference by some and with contempt by others; his chief of militia had been outgeneralled, his force ignominiously defeated, stripped of their arms, and made prisoners without having struck a blow; his friend and counsellor was in the hands of the Committee, and he himself was powerless, governor by sufferance only, and his name a reproach and byword throughout the state. The position was by no means a pleasant one; but he deserved little sympathy, for it was petty pride that caused him to strike such an attitude, and sullen obstinacy that prevented him from retiring from it. He was actuated by no lofty motive, cared little for the lives and property of the citizens, and still less for the welfare of the state.

In the editorial of the Sacramento *Union's* issue of June 27th appeared the following comment on Governor Johnson's course: "Finding, after a trial of nearly a month, that the intelligent people of the state, including nineteen twentieths of his personal

and political friends, have taken a different view of his official duty upon the point of issuing the proclamation, it seems to us that he might revoke that document with the approval of nine tenths of the people of the state, and without any violation of conscientious views of duty, or loss of official or personal character. Had that document been revoked two weeks ago, we are confident that J. Neely Johnson would have immediately commanded again the respect and full confidence of the people of the state. A proper course now may produce a like result. But that course must be divested entirely of military threats and displays, or it cannot prove acceptable to the people. By a fair, just, and magnanimous policy on both sides this San Francisco difficulty may be adjusted honorably and satisfactorily to all parties in two days. To effect this, however, there must be concessions on each side. There must be no stubborn adherence to individual opinions, no further war upon abstractions and technicalities, no warring of prejudices and passions around the board. A few men with cool heads can settle the difficulty in a day."

A lengthy editorial upon the subject of conciliation appeared in the same journal on the following morning, in which the governor was urged to take immediate steps for settling the difficulty amicably. "Our desire to have this unnatural controversy closed by compromise," says the editor, "does not arise from any anxiety for the Vigilance Committee. They are too strongly organized in San Francisco, and too firmly sustained by the great heart of the people, to be disturbed by any force that can be brought against them from any quarter so long as they keep right on their side. Our anxiety is for the state officers themselves. A fierce conflict between them and the people would seal their fate as officers; and should the lives of a half-dozen good men be sacrificed by their orders, the state would soon be found too small to hold them. But all danger of a hostile collision can be

and should be placed beyond human contingency by the act of the executive. Were we in his position we should not hesitate to visit San Francisco, and say plainly to those citizens what we were willing to do to produce again peace and harmony. We should expect to make honorable and magnanimous concessions to the spirit of liberty which has exhibited itself in San Francisco, and we should expect to be met in the same catholic and generous spirit by the Committee. We should propose to revoke the military order to General Sherman, to modify by another document the military and insurrection portion of the proclamation, and, upon such conditions as might be agreed upon, declare a general amnesty for the past acts of the Committee."

Following up the subject with the same earnestness on Monday, the 30th of June, the same writer continues and thus exhorts the powers on Sacramento street:

"The Vigilance Committee are in a position of such strength, possess power undisputed in San Francisco, that they are in a situation to offer generous concessions and liberal terms to the state, without subjecting themselves to the suspicion of being influenced by their fears, or by any motive save that of giving peace and quiet to the community which they have purified morally by their acts. While the least uncertainty existed as to their position, they exhibited consummate wisdom in every movement. Possessed now of power almost unlimited let them have a care that it does not so intoxicate them as to lead to acts which will be pronounced blunders. Their power was voluntarily conferred in a day; it may voluntarily be withdrawn in a night. If Hopkins fortunately lives, the case of Judge Terry can be disposed of in accordance with the demands of justice, and without embarrassing the Committee. If death follows the wound inflicted by the judge, to save his life will be difficult if not impossible. Hence the reason why we urged the executive to go to the bay on Saturday and close the matter at once and before a fatal termination could follow in the case of Hopkins. But some of his friends thought he had better not go. It was suggested that so great was the excitement that he might be uncourteously treated in the streets, an idea that never entered our mind. We do not believe that the governor would have been subjected to insult; our opinion of the citizens of San Francisco leads us to think otherwise."

Balancing thus the pride and the interest of both sides with no little skill and calmness, this writer

urges the governor to advance, speaks of the impossibility of any other method of settling the difficulty, touches upon the uncertain tenure by which he and his party hold offices, the jeopardy of his friend's life, and finally pricks him on with a gentle intimation of cowardice, while on the other hand he pats the Vigilance Committee on the back, reminds them of the uncertainty of human events, and advises them to treat the governor kindly. It was well intended, well executed, but it would not work; Johnson lacked the manliness to be governed by such advice, yet it could but influence him. He saw the truth of it, yet he had not the courage to follow it. Some action, however, he deemed necessary, so he adopted a middle course, usually the covert of weak and vacillating minds. Calling to him his father-in-law, Colonel James C. Zabriskie, he requested him to go down to San Francisco and endeavor if possible to adjust the difficulties between the Vigilance Committee and the authorities. He authorized him to make the following proposal, namely, that if the Committee would deliver Terry to the courts for trial, place in the governor's possession the state arms, and disband, he, Johnson, would advise the authorities of San Francisco not to prosecute any member of the Vigilance Committee for offences alleged to have been committed, and should any be thus convicted he would grant them unconditional pardon. The utmost secrecy was to be maintained, as in case of refusal on the part of the Committee to comply with the governor's proposal, the governor would not have it appear that any advance toward a reconciliation had been made by him. This was the 2d of July. Colonel Zabriskie accepted the commission and associated with him James Allen and C. B. Zabriskie of San Francisco, and the game opened. The high commission first addressed a letter to Judge Terry, dated International Hotel, San Francisco, July 3d, 1856, in which they made known their authority from the

governor to treat with the Committee, and assuring him that he could materially contribute to their success.

Alluding to the communication of Mrs Terry to the public in which she expresses the belief that if a majority of the people desired her husband's resignation he would grant it, they took it for granted that he approved of that proposition, and asked in what form such an expression of popular will would be acceptable to him. It will easily be perceived that Mrs Terry had been instigated to the expression of such belief either by her husband or his friends in order to keep the subject agitated and call out proposals—mostly, it would seem, for the gratification of spurning them. Terry had no intention of resigning. He well knew that it would make little or no difference with the Committee in the disposition of his case. It was hanging or exile the Committee were thinking of, either of which would terminate his career as associate justice without any action on his part. Yet the opportunity of a refusal to resign was an intense satisfaction to him. Nor could the insinuation of Mrs Terry do any harm; for in the first place, he, the judge, might disclaim any knowledge or authorization of it, and in the next place he well knew that any such expression of public opinion as she had alluded to was simply impracticable. It was all done for effect. And the bait took. In answer to the nuncios' question, How can the wish of the people be ascertained in relation to your commission? Terry evasively replied that being deprived of the privilege of seeing his friends he was not prepared to indicate any manner in which the sense of the people could be taken. If some of his friends might be permitted to see him, doubtless a satisfactory determination might be arrived at. "Upon one thing I am, however, resolved," he says in conclusion, "that I will not resign my office while held in durance. If I leave this building alive I leave it as justice of the

supreme court of the state, and no power on earth shall change the resolution."

The next thing for the ambassadors to do was to find the friend that Judge Terry desired to see whom the committee would admit to his presence. Mr A. P. Crittenden, a man of rare ability, united with mild manners and a truly chivalrous sense of honor, was finally selected, whom the Committee granted access to Terry's cell. The correspondence thus far was placed in Mr Crittenden's hands and the utmost secrecy enjoined. Crittenden then held an interview with Terry and shortly returned Zabriskie the following reply to the question, how the will of the people was to be ascertained: "Let the offences charged against me," said Terry, "be submitted to a public trial before an impartial jury, as speedily as may be. If I am found guilty of any offence whatever I will at once resign." As I have before remarked, there would be little danger to the high official in this, as Judge Terry's friends were the court party. Once in their hands, with twelve men of their selection on the jury bench, and there would be little doubt how the case would go. This was to leave it to the people!

As a matter of course the Executive would listen to no proposal which this commission was enabled to make, either from Johnson or Terry, and the governor's overtures resulted in failure. But the affair did not end here. Colonel Zabriskie was sensitively anxious to have the whole matter kept quiet. Judge Terry, on the other hand, would rather it were known that he had been asked to resign and would not. At Judge Terry's request, the written reply to the letter of Allen and the Zabriskies which was given Mr Crittenden appeared in the *Sun* of the 8th of July. This made the commissioners angry, and a newspaper controversy between them and Mr Crittenden followed. Worse was yet to come. The governor, seeing that his commissioners had failed, that his over-

tures were made public, and his friends quarrelling among themselves as to who was in fault for the publicity of the proceedings, determined so far as he was concerned to cut loose from the complication by ignoring the whole matter. Governor Johnson now came out in the public journals flatly denying ever having authorized Allen and the Zabriskies so to treat. This naturally made the nuncios very indignant. To Johnson's face they denounced his dastardly conduct and made the most solemn asseverations as to the truth of their statements. And the people believed them.

I will conclude this incident, significant as it is of the character of the law and order leaders, with the following comment of the *California American:* "We have read with astonishment the reply of Governor Johnson to the explanation of Colonel Zabriskie and General Allen. After having conferred the authority claimed by those gentlemen upon two distinct committees or agencies previously appointed by the governor, he now repudiates the authority of like character claimed by those gentlemen and which no honest man can doubt the governor conferred upon them."

The Nevada *Journal* of the 18th of July gives the following:

"A QUESTION OF VERACITY.—The papers below contain a card from Colonel J. C. Zabriskie, the facts of which are corroborated by a statement of General James Allen, in which Governor Johnson is shown up in no very enviable light. If there is no mistake or misunderstanding between the governor and the gentlemen before mentioned, the case is an awkward one for the executive. The facts in brief are substantially these: Colonel Zabriskie and General Allen were empowered by the governor, according to their statement, which is entitled to every credence, to proceed to San Francisco and treat with the Vigilance Committee for the liberation of Terry, and settle as fully as possible the existing difficulties between the people and the authorities. The basis on which the negotiations were to be conducted was, the Committee should deliver Terry over to the civil authorities, return the arms of the state, and disband. In consideration of which the governor would recommend the passage of a general amnesty act by the next legislature, and use his influence and the power in him vested to prevent the punishment of any member of the Vigilance Committee for acts committed under the authority of such Committee.

"Messrs Zabriskie and Allen proceeded to San Francisco on their mission, but were unsuccessful in consequence of the intractable disposition of Terry himself.

"The *Sun* published the authority under which Zabriskie and Allen were acting, which induced the editor of the *Express*, published at Marysville, to personally interrogate the governor, who was on a visit to that place, as to whether the two gentlemen named were acting on their own responsibility or his. The reply was, they were acting on their own. About the same time the governor addressed a note to Zabriskie and Allen, demanding the contradiction of the report in circulation, that he had vested them with powers to settle the difficulties in San Francisco. This called out a rejoinder, in which it was explicitly and emphatically declared that the two gentlemen were empowered by the governor to settle the difficulties named. Another note was addressed to the governor by General Allen and Colonel Zabriskie, demanding that he should put a stop to the dirty innuendoes in circulation concerning them, by publishing forthwith an explicit statement of the power he conferred upon them as his agents, and threatened that unless he did so, they would. To this, as well as to several previous notes, Governor Johnson made no reply.

"In justice to himself Colonel Zabriskie has been compelled to make the facts public, though the step is a painful one to the man and the father. The governor repudiates the authority he conferred upon his agents, or rather denies having invested them with any power to treat with the Vigilance Committee at all. Colonel Zabriskie and General Allen are willing to qualify in the most solemn manner to the truth of their statements, and thus the matter, at this writing, stands. The governor had made himself sufficiently ridiculous before, but the latest developments make him perfectly contemptible."

No true history of this movement can long leave hidden so important a personage as the governor's gentle general, Volney. Before he danced in full armor as one of the Salii priests to the governor's Mars, Howard had borne the reputation of a talented lawyer and a good citizen. More active in this instance than Sherman, he was less efficient, indeed harmless, and take him all in all, he was a man after the governor's own heart. He now seemed determined, if it lay in his power, to drive the issue to a swift determination. He would stir up the cities of the interior, if possible, to subjugate the bay city. He would save Terry's life and heal Johnson's wounded honor. He would save the state, save the union, save humanity. This would surely be commendable action, which the people would praise and posterity apotheosize. After the collision of Satur-

day in which he endeavored unsuccessfully to play a conspicuous part, he left by way of Napa for Sacramento, where he arrived Monday night. Immediately posters informed the citizens of Sacramento that they would be addressed by General Howard at half-past eight in front of the Orleans Hotel. At the appointed hour a large crowd collected about the place.

Howard mounted the stand, and, so far as the continued interruptions would permit him, made a most inflammatory speech. "Fellow-citizens," he said, "we are in the midst of a revolution, we are in the midst of a conflict, and we must never cease the struggle in behalf of the right, or we go out of the union. Every act committed by the Vigilance Committee is a stain and an insult upon the state. What is the case? One of the most illustrious citizens of the state, one who has been elevated to one of the highest and most important positions within the gift of the people, a man of unimpeachable and unblemished character, one whom the people delighted to honor, has been ruthlessly seized and thrust into a dungeon by a set of men styling themselves the Vigilance Committee. He has been assaulted in the streets in attempting to execute the right of every citizen, and thrust ignominiously into a loathsome, dark dungeon."

"Who is he? Whom do you mean?" cried the crowd.

"He is a man known to you all," said the speaker; "he is Judge Terry."

"Let him stay at home! What business has a judge to mix himself up in street rows?" exclaimed the impudent crowd amidst great confusion.

Drawing a paper from his pocket Howard said: "I take one thing for granted, that you are willing to hear the truth; that there is in this crowd no man so cowardly or so mean that he is not willing to hear the facts."

"What paper is that?"

"This paper is conducted by a man you may de-

nounce and pretend to despise," continued the speaker, "a man of unquestionable courage, and one whom in your hearts you must respect—John Nugent of the *Herald.*"

Loud laughter, deafening shouts, hooting and clapping of hands followed amidst cries of "Give us an impartial paper! Read from the *Union!*"

"Fools and cowards may laugh at it, but honest men—" Here the speaker was interrupted by a storm of shouts and laughter.

"I know that a few men have been hired and especially delegated to come here to interrupt—"

"They are nine tenths of Sacramento!"

Finally exasperated beyond endurance Howard shouted, "You are a set of vile cowards!" And a general battle of blackguardism, dirt-throwing, and epithet-hurling between the speaker and the crowd set in. A singular method, one would think, by which a wise man would attempt to make converts; as wise as that adopted by the learned supreme justice, who attempted to crush a community organized for the prevention of crime by stabbing one of its members.

Commenting upon this meeting the *Union* says: "Mr Howard instead of arousing any enthusiam for the cause of despotic rule and the butchery of the people, which he advocated, succeeded most effectually in bringing the law and order party lower in the estimation of good men than before, and completely floored Major-general Volney E. Howard in their eyes. He did have a reputation as a man of talents before he made that speech; he did succeed in convincing those who heard him, that he was not half equal to his reputation.

"These Texas men appear to think that the free men of this state can be driven like Indians on the western border of that state, at the point of a few hundred bayonets. They thought at first that five hundred men would be as many as they would need. They flattered themselves that the 'shop-keepers' of

San Francisco would not fight, that they would run if a handful of brave men presented themselves before them. These San Francisco men did not belong to a fighting stock, because they were peaceably attending to their own business, did not walk the streets with pistol and bowie-knife on their person, and had not killed nor shot their man in a street fight. Upon this point Judge Terry and General Howard have probably changed their minds since one was captured by the Committee and the other had his little army and their arms taken before his very eyes, while he deemed that duty or prudence required him to beat a retreat from the city." True. And like the explosive force in gunpowder as compared with the cracking of thorns under a pot, quiet men are as a rule the most dangerous element when aroused; and often the slowest to enter a fight are likewise the slowest to leave it.

"Could a gentleman or a man of honor be persuaded to have uttered such a tissue of lies, misrepresentations, and slanders as came from this infamous libeller at the meeting on Monday night!" exclaims a journalist. "Howard's billingsgate language towards the members of the Committee, more especially his slander that the noble-hearted Frenchmen who with other adopted and alien citizens have ventured their all in support of the common cause are convicts, is an infamous lie; and he knows it."

From Sacramento General Howard proceeded to Placerville, but finding the public pulse beating low for law and order in that quarter, he left, without attempting an address, for Coloma. Even there he failed to obtain a hearing.

Says the Nevada *Journal:* "Volney E. Howard, a San Franciscan, has been selected by our governor to take command of the thousands whose brave hearts are stirred by his belligerent proclamation, coming from the counties of Sierra, Nevada, Placer, El Dorado, Amador, and Sacramento. It is quite likely in any

decent emergency, the people of the district had just as lieve be commanded by a resident general, but as it is, it is a matter of congratulation to us that there is a scarcity of the timber in this division out of which such commanders are made. Williams, he that shot Bourland, an unarmed man, and he knew him to be so at the time, has been dubbed brigadier-general for the emergency. He will make a good subject to command the second brigade. Law and order is most beautifully exemplified in him, and will be most signally enforced by his commands."

"The ill success of the trip of V. E. Howard into the interior in search of recruits for the law and murder army," says the *Bulletin* of July 24th, "has quite discomfited the leaders in the movement against the people's interests, and places the military chieftain who indited a bombastic letter to Governor Johnson, after his defeat in this city, in a most ridiculous position. The workers in this scheme of iniquity are, however, indefatigable. They have printed a circular addressed to persons living in the interior, a copy of which, found folded in one of the unscrupulous sheets devoted to law and murder, has been handed us. Over it is written, 'To be signed by all who approve.' We do not apprehend that the number of signatures obtained has yet reached a very alarming figure. What a mass of bombast! We are informed that General Volney E. Howard is a guest of General Estell at the state-prison, where they both properly belong. He made a speech of three hours, to about twenty hearers, at San Rafael, on Tuesday last."

But what could Howard say against the Vigilance Committee? Listen to him, and remember that hitherto this man had enjoyed a reputation not only for common sense and common honesty, but for ability and respectability. "I say," he exclaimed vehemently, amidst great laughter and hissing, "because Casey killed King they hung Cora. Now, fellow-citizens, when Cain killed Abel, did the Almighty kill Cain?

No, he put a mark upon him and sent him away. But this Vigilance Committee is greater and wiser than the Almighty. They know more and know better how to punish. Ah, fellow-citizens, the time is at hand, the time is at hand when these green-grocers, these venders of sour flour and corned pork will have to look to their necks! They are already quarrelling among themselves, and I should not be surprised any day that they had broken out into deadly strife and killed a thousand men! Has not this detestable organization set father, son, brothers, relatives all against each other? Has it not stopped all business? Go down to the city now and see. If the streets were not made of rotten plank, the grass would be growing in them. Before three weeks the failures will astonish you all, for they must come, and soon. Now, they want the officers to resign; and for what? That they can deal their places out to some of their own gang. Yes, they begin to fear for their necks. They begin to think about disbanding, and with the present officers in power they know it won't do. Now, if they can get the officers out, and their own party in, they can disband with safety; for they know they are just as bad and just as likely to be hanged by the laws as Casey and Cora were by them. They talk of holding out till election time. You see, then, that the whole thing is turned into a great political machine, by which they intend to control the elections, and get in their own party. The spoils of the officers will help to remunerate them for their losses in attending to the Committee business. The spoils of office will be a fat morsel for those sour-flour dealers, who have lost their all by some flour monopoly speculation. They must be paid in some way, and there is no other way left them. Now, gentlemen, why have they not struck at the root of the evils they talk about? They have sent off a few of the poor tools, but they dare not put their finger on the great, the moneyed men. They dare not touch them. Shame!

Shame on them! Now, there is David S. Terry. What has he done to be treated in the manner he is treated? I say, nothing. I have known him since he was a boy, and he is above reproach. The man Hopkins they prate so much about, with a scratch on his neck, I say a mere scratch, made by Terry it is true, but it is also true that he had a right to do it, a right to defend himself. For this he is incarcerated in a dungeon, without even being allowed the consoling presence of his dear wife. Did the annals of history ever show such cruelty, such revenge? Why, the French revolution was nothing to it!"

These words were hardly worthy of General Howard, who, pleasantry aside, possessed a warm heart and a good head. But many heads on both sides were turned during these exciting times—more exciting than were found in many localities, throughout the civil war which followed.

The day of the attempted insurrectionary meeting before the Orleans Hotel, a pronunciamiento addressed to Governor Johnson by Howard against the San Francisco Vigilance Committee appeared in the columns of the *State Journal.* This document reviews the affairs of the last fortnight, since which time Howard had been in command of Johnson's forces, in the same spirit of candor, sound logic, and truthfulness which characterized most of the affirmations of the law and order cabal. Lest I should fail to do him justice I will permit General Howard to plead the cause of his party and denounce his opponents, so far as I have the space to spare, in his own words. It may be remarked *en passant* that there is a remarkable similarity in all the law and order literature of the period. What it lacked in reason it made up in roaring, and if veracity were wanting vehemence and vituperation were not. The reader will readily detect minor misrepresentations from wilful mendacity; for it was utterly impossible for men on either side, with passions at fever heat, at all times to control their

tongue, and present only sound, logical arguments in temperate language. Strange how differently men of equal intelligence and ability regard the same matter!

After reviewing the events of the previous Saturday, at which time he made an unsuccessful attempt through Mr Coleman to obtain the release of Terry, he recites the crimes of the Committee in the following words: "The circumstances connected with this movement are such as to leave no doubt in my mind that the insurgents aim at nothing less than an entire overthow of the state government and secession from the federal union."

So utterly absurd, so far removed from the thought of any member of the Committee, was this idea, that I deem it words wasted to refute it. I would only say that this accusation was persistently promulgated by law and order journals and speakers, day after day, until one would think that they in reality began to believe it, but I cannot so outrage their understanding as to give them credit for sincerity. The business men of San Francisco secede from the union because certain human vermin infest their streets!

To proceed: "If it had been their purpose to disband in a short period, they would not have committed piracy by robbing a vessel of a small quantity of arms upon the bay. They would not subsequently have levied actual war upon the state by surrounding the armories by a large military force and seizing the state arms and making prisoners of the men guarding them, especially as they knew that your orders were that I should act on the defensive, and that I had no power or means to pursue any other line of conduct. It must be obvious to all men of discernment, that this lawless association has proceeded from one crime and outrage to another until they have arrived at the conclusion that there is no safety for their leaders but in revolution and a separate government on the Pacific. They have committed treason, murder, piracy,

and the felony of kidnapping. They have violently and with force of arms trodden down the authority of the executive and judiciary. They have at the point of the bayonet resisted the execution of the writ of habeas corpus, for ages justly considered the bulwark of personal liberty. They have assembled around the jail of the county of San Francisco large numbers of armed men and planted a cannon against the front, and thus compelled the surrender of two persons therein detained in the custody of the law, whom they have since put to death without legal trial or the forms of judicial proceedings. They have without a warrant or any other process of law, forcibly searched the houses of honest and peaceable citizens at the dead hour of night, outraging families and terrifying defenceless females. For nearly six weeks they have trampled down by an armed military despotism in San Francisco every constitutional right secured to the citizens by *magna charta* and the bill of rights. They have robbed us of the heritage earned for us by the labors and sufferings of the sages and patriots of 1776. They have erected in the heart of the commercial metropolis a fortification filled with armed men to overawe the citizens and the civil authorities. By day and by night they paraded in the streets large bodies of armed men, and San Francisco presents continually the appearance of a city in the possession of a foreign foe. And it is so, practically. It is well known that the Vigilance Committee have armed and hired a large body of foreign mercenaries to shoot down the officers and citizens of the state in discharge of the duties cast upon them by the laws and their oath of office."

After a column or so in this strain he assumes a loftier tone. "What right," he exclaims, "have such men to kidnap one of the judges of the supreme court, a gentleman who is the soul of honor and truth? How dare these traitors thrust Dr Ashe into their dungeon, erected at the expense of their creditors, a gentleman

who had committed no offence, and upon whose integrity the mildew of calumny has never for a moment rested? Are the people of California descendants of men who can guard liberty with their swords, or some bastard race reduced to slavery on the shores of the Pacific by shopkeepers and merchants? When shall we all be sold in market to pay their debts in New York and Boston?"

CHAPTER XXVII.

THE VERDICT.

It was therefore of little immediate consequence that man should stand upright in token of his dominion.

Lotze.

Guilty, and the prisoner to be discharged! Such is the paradoxical verdict. Guilty; and discharged! That is as the people first hear it. Terry at large! Free! Discharged by his judges who found him guilty. Nonsense! No wonder men smile incredulously when first they hear of it. Oh, no! Before they can be made to believe that of the executive committee, the people's pride and city's honor, the morning sun must first project black rays against the vaulted blue. No, indeed! These men are not traitors; they are not cowards, nor venal venders of public morality. Never would they yield to threats, nor sell justice at a price.

And yet it is true. These judges in whom but yesterday all placed such unbounded confidence, by whom these weeks past all good citizens have stood and beside whom they were ready to die, themselves pronounce him guilty; and then as if in the shameful execution of some dastardly conspiracy they surreptitiously discharge their too illustrious prisoner, in the opaque early morning, even guarding him from popular vengeance in his escape. 'Tis too outrageously true.

Such was the feeling on all sides among the vigilant ranks and among the people, everywhere except among the opposition, who of course were jubilant. Some

were sick; others were angrily sore about it. Nor did they hesitate to curse the Executive as men of milk and water, as frightened foolish cowards. Newspapers cursed them. Those who had contributed their thousands to support the movement cursed them. He who had played the common soldier through the long night watches, who had neglected his business and family, and had drilled and marched and confronted danger for nothing on earth but his inherent love of truth and virtue—he cursed them. Indeed, never were good men so blasphemed in California.

The people were sorely disappointed; their hearts sank within them. All was lost. They would not give a copper for the cause after that. Honor was gone; prestige was gone; all the hanging and banishment hitherto had been done in vain. Then how well it sounded. Brave, honorable men; hang your little Caseys and Coras, banish your Sullivans and your Mulligans, but the judge of the supreme court, let him go. Bah! Talk no more of justice or integrity.

This man had left his seat in the highest legal tribunal of the state, had left the capital, the city of his residence, had come to San Francisco for the express purpose of precipitating a bloody collision between the Committee and the state authorities, and had so forgotten himself and the dignity of his high office as to mingle in a street affray, in a matter about which it was far from his duty to concern himself, and finally to resort to the use of a deadly weapon upon a man who was seeking to do him no harm. And this, all as the part of a general plan, in which the weak Johnson and the mighty Howard were conspirators.

And yet he could neither be hanged nor banished. It was, indeed, exasperating.

Says one of the people's organs on the subject: "Had Hopkins been murdered by one of Terry's or Howard's misguided ignorant tools, and the Commit-

tee had merely banished him the country, we would not have murmured. But we look on Judge Terry in a different light. He is a man of education, of position, and wealth. He should have known better. Nothing but an unbridled passion and a wicked ambition for political advancement governed both Howard and Terry in this affair."

And thus another: "The critical period has arrived for the general body of the Vigilance Committee to act. The self-constituted executive body of that committee have managed, or rather mismanaged its affairs in the most scandalous manner, especially of late. The only remedy that now remains is for the betrayed members of the body to reorganize themselves and elect an executive body of tried men, fewer in number, but with stout hearts and clean hands—men who understand what an historical crisis is."

The trial closed at eleven o'clock Tuesday evening, the 22d of July, having lasted twenty-five days; but when we consider that sessions were held every day including Sundays, and that nearly every day there were two sessions, we may leave out the few days in which this case was not brought up and still have equivalent to two full months of ordinary court proceedings expended upon this trial.

In closing, Judge Terry pleaded his own cause, and Mr Smiley spoke for the people. The following oath was then taken by each member of the executive committee: "We hereby pledge our sacred honor to God and ourselves, never to divulge the votes taken in our verdicts rendered in the trial of David S. Terry to any living being outside this room. So help us God."

It was agreed that three fifths of the number of votes cast should be required to convict. On the first count of the indictment, that of resisting an officer of the Committee while in the discharge of his duty, the prisoner was found guilty. On the second count, that of assaulting Sterling A. Hopkins with a

deadly weapon, with intent to kill, the prisoner was found, by the executive committee, guilty of the assault only; the delegates, however, as we shall see, made him guilty of the entire charge. On the third count, that of an attack on Evans, the prisoner was found not guilty by the executive committee. The board of delegates dismissed this charge. All the other charges, except the seventh, on which he was found guilty, were dismissed by the executive committee.

On all the charges but the second the Executive had no difficulty in arriving at a decision. The vote on this charge was postponed till next day, the 23d, when it was ordered that if after the third ballot no verdict was found a committee of conference should be appointed to determine some plan of amicable settlement. The vote was then taken; when the prisoner was found guilty of the assault only. This did not at all suit the board of delegates who found him guilty of the entire charge. The matter of punishment was made the special order for 12 o'clock on Thursday the 24th. The grand marshal was directed to call together the board of delegates for Friday at eleven o'clock.

Thus of every important charge the prisoner was found guilty, nevertheless it was determined to pass upon him the following sentence: "That David S. Terry having been convicted after a full, fair, and impartial trial, of certain charges before the Committee of Vigilance, and the usual punishment in their power to inflict not being applicable in the present instance; Therefore be it declared the decision of the Committee of Vigilance, that the said David S. Terry be discharged from custody; and also, Resolved, that in the opinion of the Committee of Vigilance the interests of the state imperatively demand that the said David S. Terry should resign his position as judge of the supreme court. Resolved, that this resolution be read to David S. Terry, and he forthwith be discharged from the custody of the Committee of Vigilance on this being ratified by the board of delegates."

The board of delegates met pursuant to the call of the grand marshal, Friday morning, the 25th of July, at eleven o'clock. By invitation Mr Coleman occupied the chair. At the calling of the roll one hundred members answered to their names. After disposing of certain miscellaneous business the case of Terry was brought up and the evidence on both sides was read; also Terry's statement in his own defence, and finally the verdict of the Executive.

A motion was then made and lost that the delegates concur in the verdict of the Executive, followed by a motion which carried, that the board of delegates take a vote on each count of the indictment and verdict of the executive committee separately. The verdict of guilty on the first count was confirmed by a vote of ninety-five ayes to two noes. The verdict of guilty was found on the second charge by a vote of eighty-eight ayes to eight noes, the words in the finding "of the assault" being stricken out. The action of the Executive on the other counts was confirmed; all except the one charging an assault on J. H. Purdy, which was expunged.

Several meetings of the delegates now took place, in which the case of Terry was not brought up. Meanwhile the utmost persuasion on the part of those in favor of sustaining the Executive verdict failed to induce the board to acquiesce. Finally, at a meeting held the evening of the 31st of July, ninety-two being present, out of which number seventy-nine only were allowed to vote, the remainder not having heard the testimony read, the case of Terry was again brought up, when it was resolved, the Executive concurring, that he "be banished from this state on the shortest possible notice, under the usual penalty." The whole matter was then referred back to the executive committee, with the request that the Executive should meet the board of delegates, and the two bodies should act in joint convention until the vexed question should be settled.

The 5th of August the delegates called on the Executive in a body to learn their views in respect to the case of Terry. The members of the Executive having expressed their views, the board of delegates voted upon a motion to reconsider the sentence, which was lost. Next day by a vote of forty-four to thirty-six the delegates concurred in the sentence of the Executive; and on the 7th of August, at a meeting held at two o'clock on the morning of that day, the Executive resolved that the sentence of Terry be read to him, and that he be forthwith discharged, which was done at fifteen minutes past two.

"There was a dead-lock in the Committee," says Crary. "We cast some forty ballots before the board of delegates were called into session again. I think there were but thirty-four votes cast throughout the day; seventeen to seventeen all the time."

The delegates were brought to acquiescence only by influential members going from one to another, and explaining the dilemma and satisfying them that there was nothing else to be done under the circumstances. "He was bigger game than we calculated to bag," said Smiley; "after he was found guilty there was still a fight for time, to endeavor to get the executive committee to re-examine the case, or to retract their vote."

"Why the executive committee came to the conclusion that they could not banish him, I do not know," says the soldier Olney, more accustomed to obey than to question. "I only know I was in a terrible state of excitement that night when I received the order to liberate him. It was the only time during the whole reign of the Committee that there was anything like expression of feeling against any act of the Committee. But in this case a large number had gathered; the building was crammed. They got together on the lower floor, and there was a good deal of excited talk, and it seemed as if there would be resistance to

the order to liberate him, and a good deal of strong language was used."

Men of influence in the Committee, prominent among whom were Colonel Olney and Judge Blake, mounted platforms and attempted to soothe the angry assemblage; and such was the confidence of the members in their officers, such their abhorrence of anything like disruption in the ending of their hitherto harmonious work, that although they were fearfully and angrily excited they could but yield obedience. Though they hated the verdict, they revered the judges. Finally they calmed; and afterward all were ready to acknowledge the wisdom which governed the Executive.

Mr Coleman's explanation presents the matter in a very clear light: "Here was a disagreement or difference between the decisions of the Executive and the delegates, which was embarrassing. The Executive felt that it were better that their conclusion should be maintained and carried out; but the spirit of the whole organization was that of harmony and unity of action, and the Executive did not want a divergence on this most important case. The fact was that Hopkins had recovered, and any severe penalty on Terry was impossible. It was felt by the Executive that his long incarceration and trial, which had weighed heavily upon him, was a severe punishment, and sufficient to well-nigh compensate for his ill-advised interference with our affairs. But the masses of the people were still enraged against him, and not inclined to lessen any former conceived measure of punishment or penalty; and in this the delegates shared largely although submitting to and acknowledging the force of the views and action of the Executive. The common sentiment and demand with the community and the body of the committee was for exportation or banishment, but they did not realize what the Executive had fully considered, namely, that Hopkins having recovered, no case stood against

Terry similar to those against the other people whom we had executed or banished, and justifying a like course with him. Next, while the Committee adhered rigidly to the execution of even-handed justice withal, it would not have been even-handed, everything considered, to have banished Terry with the other characters. Again, justice being satisfied, it were bad policy, because the common sentiment of impartial and disinterested people would be in his favor, and would strengthen the claims and the efforts of his friends, who would surely have insisted upon and aided in his return to the country, and there would have been created thereby perhaps an increased, certainly a continued active opposition to the edicts of banishment of the Committee, and Terry once returned would be an excuse for others to follow; and the shield extended over him would have extended over others. Under these circumstances we could but let Terry's case rest, waiting what might be developed in his behalf or otherwise, waiting the effect of time, and hoping that a full agreement of opinion would soon be arrived at or other solution present itself."

After this well-nigh forced sanction of the delegates the Executive were determined to get rid of their too powerful prisoner before they slept, if it were possible. To accomplish this lacked one vote, and as Frink affirms, "they got up Captain Aaron Burns out of his bed to make up this deficiency, and that enabled them to pass the resolution by which Terry was liberated."

Mr Truett's dictation runs as follows: "A quorum of the Executive was obtained, as there was danger of Terry's being attacked, as we thought, by members of the Committee, and we thought it best to discharge him as soon as possible." He was taken through a store opening on Front street, and thence up California street to Dupont, where his friend Perley lived.

After Truett had taken Terry to Perley's house, he went home and to bed, and having been up for many nights with the burden of Terry's life and many other responsibilities on his hands, he was soon asleep. Half an hour afterward he was roused by Bluxome.

"There are a thousand men now hunting for Terry," he said.

"This will not do," Truett replied. "We have acquitted the man and we must protect him."

With Bluxome was Hossefross and a squad of men. Hastening over to Perley's house, where were wine and rejoicing in honor of his deliverance, Bluxome acquainted Terry of his danger. His reception was none of the most cordial, although his mission was pure charity. With generous hospitality he offered the hunted man his private apartments, saying, "They will not hunt you there." But the supreme judge had had enough of '33, Secretary,' and declined.

Presently Truett made his appearance, and to his able and brave defender Terry said, "I will be guided wholly by you."

"The best thing you can do, then," said Truett, "is to make your way down to the wharf, take a white-hall boat, and get aboard the United States sloop of war *John Adams*."

Terry assented, and gladly availed himself of the vigilant escort waiting Truett's orders without. "We all thought it best to have no crowd with us at all," says Truett's dictation, "and that a portion of his friends should go down on Kearny street, so as not to have too many together, and others should go in another direction. Terry and myself went down Dupont street to Broadway, and down Broadway to the water front, where a boat obtained by his friends was in readiness. Having got in he was put aboard the sloop of war, as arranged." It was at a quarter before two on the morning of the 7th of August, after a confinement of some seven weeks, that Terry was set at liberty. The afternoon of the

same day, in company with about one hundred men of law, he took passage on board the steamboat *Helen Hensley* for up the river.

The tidings of Terry's release fell upon the fever-stricken community like a chill. "There were three thousand men about the building, terribly excited," says Crary. Nothing of the trial from the beginning until now was known by the people, and now they were very angry; every phase of mingled ire and disgust was apparent on the faces which met that morning. Some were sorrowfully disappointed; others swearfully rampant. Their late idol, the Vigilance Committee, the people now cursed as traitors, weak and treacherous sycophants, who strangle smilingly friendless criminals, but who dare not touch the august Terry's garment's hem. As Frink puts it, "there was the devil to pay. It nearly broke up the Committee. Coleman came in and said he knew nothing about it, and calmed them as well as he could."

Indeed, to the manner of Terry's discharge Mr Coleman takes exception in language stronger than I have often heard him use. Speaking of the eleven brought together for the express purpose of liberating Terry, of which number Coleman was not one, his dictation says: "They took advantage of a provision in the rules of the Committee which allowed about a dozen members of the Executive to act as a quorum by night in cases of danger or emergency requiring immediate action, and proceeded accordingly."

"My own plan," continues the president, "and that of some others, which I had freely expressed, was that upon the concurrence of the board of delegates in the sentence of the Executive, Terry should be formally discharged in broad daylight, in the presence of the whole Committee assembled for the occasion, and escorted by the military from his place of imprisonment, which proceeding would have been more in accordance with the character and dignity of the

Committee than that actually pursued by the minority of the Executive."

In truth it was a trying moment and displays in a greater degree than any other incident of the crusade the rare self-control of the leaders and the strong and ruling principle which could hold as in a vise disrupting passion pervading the whole association.

Let us follow Mr Coleman a little further: "It was a matter of intense surprise to the president and the other members of the Executive and of the great body of the whole Committee the next morning, to learn what was on everybody's lips, that Terry had been clandestinely allowed to escape. Excitement was intense; rage, mortification, invective were the features of the hour. How? Why? Wherefore? By whom? were the questions everywhere resounding. The answers were, We cannot understand it. We left the delegates in convention, the vice-president of the Executive in the chair. We supposed that this action if any, would be reported to the Executive. A demand was made on all sides for explanations, for reparation, for punishment of the guilty ones, if they were guilty. The great body of the Committee were of course in utter ignorance of these several proceedings which had led to this result and were incensed and outraged at what they considered treachery and cowardice. The main floor of the Committee room was crowded, and an impromptu organization was called for, for explanation, and as some expressed it for further action. All the seeds of dissension or of dissatisfaction that had been sown by our enemies during the Terry trial seemed at this moment to be ripening, and prompt and proper action was evidently needed. The president called the Executive together and an explanation was asked of the members who the night before had discharged Terry and who by this hour were well known, which they gave; and after all was said and all that could be was done the final answer resolved itself that it was very ill advised, very hasty, very unfortunate, very

undignified, not in good taste, nor becoming the Vigilance Committee. These members and others were requested to address the body of the meeting below, explain proceedings, and if possible satisfy the body of our members and restore quiet. They were accordingly addressed by a number of gentlemen, and every effort was made, and assurances were given that the Executive in full session approved of what was done. But while many were satisfied the majority would not be, and they called for the president, and sent deputations to him asking him to address them and to give his assurance of approval of what had been done. The president responded, and assured them that what had been done did not meet his approval and could not, for while what was done was technically right in substance, it was palpably wrong in manner and form; and while we must abide by it, it was one of the few prominent things in the whole course of our labors that caused him deep regret. While we could not approve we had to abide by what was done."

Indeed, taking it all in all, it was of very little consequence how the judge was discharged. Secretly and by night was the quickest, quietest way; openly and by day would have displayed the discipline of the troops at the best advantage, provided their obedience proved equal to the emergency. The verdict, the discharge, the assertion and acknowledgment that though guilty of serious charges the Committee could not punish him, after all their professions of fairness and of power, were certainly nothing to be proud of nor to make special parade about.

Actuated by the highest motives that restrain and govern society, the executive committee were to be swayed by no mortal man, by no mortal passion, by no journalistic enforcement. Thomas King, of the *Bulletin*, as is frequently the case with journalists who heartily espouse a cause and argue for days and months on one side of a subject, was very bitter. "The first false step," he writes over his editorial of

August 7th. "It is with feelings of mingled indignation and regret that we are compelled to announce to our readers that the executive committee of vigilance have seen fit to let loose upon our community the rowdy Judge D. S. Terry in the farce of trying whom this body has been for some time engaged. We are in possession of none of the reasons which impelled these individuals to this course of conduct, except such as may be gained from general rumor. The executive committee have taken action which we cannot speak of as other than criminal and weak. They have failed in their pledges to the people to act without fear or favor. They have checked the reform movement, perhaps killed it. They have infused new spirit into the rowdies and personal responsibility men, against whom they have seemed hitherto to be in opposition. They have set at naught the general committee and the people. They have acted not only without the consent of those from whom they derive all the power they possess, but in direct opposition to their ascertained will. They no longer represent the feeling of our community. Let them not complain if in any danger which may hereafter threaten them, that support which has hitherto been so cheerfully awarded, shall be found wanting."

And so this journalist goes on for a column or so, and the next day as much more and the day after, heaping up the most scurrilous abuse upon the men who but yesterday were gods. To say the least it was in very bad taste. As long as the executive committee fed well the fire of Mr King's passions, or as long as hanging and banishing were lively, all their actions were highly praised. Here these men for the past six weeks had been sitting as judges, had been engaged in the weightiest matters incident to tribunals of justice, had been listening to arguments and weighing evidence, endeavoring to lay aside all passion, and judge as became men filled with a sense of their awful responsibility. And now the tempo-

rary editor of the paper sets up his individual opinion or passion, whichever it may have been, against the mature judgment of the entire executive committee. Now he not only threatens to drive them from power, but to withdraw from them the protection of the general committee, and leave them to the mercy of their enemies. But such a threat had little influence with such men.

Practically the case of Terry came up before the Committee in this way: First, should the same quality and degree of punishment be dealt this man, in so far as he should be found guilty, as to an ordinary offender, and without fear of the consequences? Essentially, yes. Yet the popular element in the Committee would have banished him. Many wanted him hanged. But the matter must be regarded calmly and from all sides. By its own code the verdict of the tribunal did not justify extreme measures. The only penalty then remaining which the Committee were accustomed to inflict was that of banishment. Without doubt his position was the chief obstacle to this sentence. Had he been a poor and ignorant man, a less exalted personage, friendless, or whose friends were men of no influence, the judge would unquestionably have been unceremoniously sent abroad. It would seem that the *fiat justitia ruat cælum* of their seal had become a mockery.

The whole attitude of affairs, however, must be taken into account. The San Francisco executive committee of vigilance was not a mob, acting through impulse alone; otherwise the honorable justice would have been more harshly dealt with, for the masses were against him. They were a body of intelligent and responsible men, who, though acting in secret, were known to many. Though superior to law, they had not law on their side. Instead of being aided by the law in performance of their praiseworthy duties, they were hampered by men who in the name of law

threw every possible obstacle in their path. Now without subjecting themselves to a just charge of fear or favor, one may easily perceive how certain acts could be performed by the Committee with comparative safety, while certain other acts, which ought likewise, if possible, to be performed, might be attended with too great danger to the commonwealth. They would exercise a wise discretion. With unbounded power execution was easy. Moderation, restriction, self-control, these alone were difficult.

That the Committee were afraid of Terry or of his friends so far as retaliation was concerned, I do not for a moment believe. Power was on their side; and had they been governed by passion alone, the very fact of his being a judge of the supreme court would have only intensified their desire to punish him. But might not the banishment of Terry make it appear, more particularly in the eyes of the authorities at Washington, that the protestations of the Committee against any thought of usurping political authority were somewhat unsubstantial? The government might wink at the hanging of a Sing Sing convict, when the banishment of a state judge would bring about its ears such a din as would give it rest never more. Moreover, to banish Terry would be an expensive luxury. To send him to Honolulu or Panamá would be idle, for he was a determined character, with a large political party behind him, and he would immediately be back again and in the hands of his friends. To make his banishment effectual it would be necessary to place him on some island unknown to his friends, and from which he could not escape. I do not see how the Committee could have adopted any other course without subjecting themselves to the charge of foolhardiness and lack of judgment.

Let the attitude assumed by these men be here noted. Like the action taken by Lincoln and Seward in the Mason and Slidell affair, it was for the moment unpopular, bringing upon the devoted heads of the

Committee anathemas, the curses of friends and the jubilant sneers of enemies. Yet to-day, who shall say they were not right? Who shall refuse their names a place among the greatest names of this great nation? Mark the connection. These gentlemen of the executive committee, these green-grocers, stale flour sellers, salt pork and codfish dealers were charged by their opponents as arrogating unlawful authority. The work they were doing, everybody admitted was a good one, but, said the law and order men, look out for the reaction, beware of mobocracy, of drunkenness in the exercise of power.

In due time all of the public journals which had hitherto been upon the side of vigilance came to acknowledge the wisdom and justice of the tribunal. The *Bulletin*, always the foremost in the cause, was the last to give in. Indeed, it seemed as if, in memory of the offence, ever since the slaying of his brother, Thomas King's heart had grown more and more bitter, until the most extreme measures in every instance alone would satisfy him. In the affairs of the tribunal, and presently in local government and municipal affairs, he assumed too nearly the tone of a dictator, as though his misfortunes gave him superior rights, and that the people should hear him for his wrongs, if for no other cause. But the wrongs of Thomas King were no greater than those that befell many a better man who made less noise about them. James King was fortunate enough to have a real grievance. He was a good man, and in the main was on the side of truth and honesty. He had been badly treated, and he saw that the community were being badly treated by bad men. He seized the opportunity to chastise with one blow his own enemies and the enemies of the commonwealth. He did well; laid down his life in the cause; and the people praised him. Thomas King was not a great man, nor a particularly good one. He was endured for some time on his brother's account, but after a while the people got

tired of his continued and bitter abuse, and the *Bulletin* fell into better hands. It has always remained on the side of the people and the people's party, whatever those terms might chance to signify. The *Bulletin* has an origin and history of which it may well be proud.

It was not long after the discharge of Judge Terry that a journalist of pronounced vigilance proclivities writes: "The first dissatisfaction has calmed down, and now all seem content to bear the executive committee out to the end. The first dissensionists are prepared to give up their personal opinions for the common good." No higher proof of the wisdom of the executive committee could be given than this admission on the part of one who within a fortnight had been unable to find in the vocabulary of his invective words of condemnation sufficiently strong for the betrayers of public trust who had liberated Terry.

The prompt punishment of those who pervert the law is what law should do, but what it never has done in this country. Of all others, lawyers and judges have trampled upon law with the greatest impunity. Next to the hungry, the ignorant, the openly or professionally vile, politicians are the greatest curse to a community, and our politics and government are much too closely allied.

Had the Committee purposed political advantage to themselves, had they been prepared to overthrow the government, had they meant revolution, their case would have been plain. But as it was, this determined judge was too large game for the calibre of their intentions. They admitted it. They could not pass the assault unnoticed; the populace would have laid violent hands on him else. Had Hopkins died, hanging would have been easy. As it was, Terry had done nothing which by their own law warranted the Committee in taking his life. It was a standing rule with them to punish capitally only for murder, to punish no more severely than the law would punish

if properly administered. If the tribunal erred, it was always on the side of leniency, in this matter following the example of the law, as may well be imagined, with a thousand unpunished murderers in the country. Had they hanged all who really deserved it, their hands would indeed have been full.

The only other method of punishment open to them was exile, which in this case was simply impracticable. At best banishment, as practised by them, was very much of a farce. A penniless vagabond they could ship hence, and so get rid of him. But this was a far different case. Terry might have been sent away, but he would have returned. Put him on a lone island and place a guard over him, his friends would have scoured the remotest corner of the Pacific to find him, and then would have hounded the government until he had been liberated. Banishment in this case was impracticable, impossible. There was then but one thing left for the Committee to do; in that straightforward, honest, manly way which characterized all their words and acts they said: "We have tried this man. He is guilty. He deserves punishment, but we are not the proper power to inflict it. He should resign his position. Our duty draws us no further in this direction; greatly against our sense of justice, but forced by necessity, we discharge him."

As the river steamer which bore him hence passed the *Adams* a salute was fired by Captain Boutwell, an act which brought upon his head the curses of the vigilants and the smiling approbation of their opponents. Immediately after his discharge Terry took his seat on the supreme bench beside his old colleague, now also returned to his neglected duties, and decisions were soon rolling out of the mill as lively and of as fine a quality as ever over the signatures of that famous pair:

MURRAY, C. J.
TERRY, J.

Nothing could prove more conclusively the strength

of the organization than the agitation of a question abounding in such manifold fierce antagonisms. It is the constant strain that breaks the strong man's strength more surely than the heavy blow. So subtile had been the spells cast by the charmers that many of the Committee were tainted; many openly avowed the opinion that Terry did right in striking Hopkins, and that he did not deserve punishment. There is something extremely fascinating in the chivalrous courtesy of the southerner; something extremely winning in his soft, plausible speech, more particularly when placed beside the coarser honesty of the New Englander, and this influence began to permeate the body of reformers like a poison. There was no greater trial in the whole campaign than holding steadily to their work under such circumstances, while battling at every step these counteracting influences. The fibre and tenacity of the association were nowhere so manifest as throughout the Terry trial.

"Public sentiment had applauded the acts of the Vigilance Committee up to the time of Terry's liberation," says the Nevada *Journal* of the 15th of August, 1856, "and with the exception of a wild and blood-thirsty few who had set their hearts on the execution of Terry, and steeled them against the palliating circumstances of his case, there is a general feeling of acquiescence in the magnanimous disposition of the distinguished prisoner by the Committee. The general features of the evidence against Terry were published long ago, and we early took the ground that if such was all and the only evidence against him he was not worthy the doom an excited populace had designed for him. And before we gave a blind sanction to all the acts of the Vigilance Committee, or gave them a *carte blanche* for ourselves, we desired to be fully satisfied that the members of the Committee were men of iron nerve, and able to withstand the heavy outside pressure at the expense of justice. The people have already pronounced their approbation of the previous acts of the Vigilance Committee, and hereafter, if not wholly now, will they admire and appreciate the justice and moderation which set Terry at liberty. The executive committee have displayed more moral heroism in this last act in braving the will of thousands of their friends, than by the performance of any previous deeds, however responsible, or good and beneficial to society they might be. It could be desired that the friends of Terry were blessed with a modicum of that magnanimity and moderation which has so signally characterized the Vigilance Committee in restoring to freedom the distinguished prisoner of the latter and the valued associate of the former. It is in exceeding bad taste to get up a triumphal procession like the one

at Sacramento, make speeches, and glorify the triumph of law and order. Had the friends of Judge Terry been sufficiently numerous, or gifted with oratory sufficient to revolutionize public opinion, or had they the courage to take Fort Vigilance by storm and set their friends at liberty, it might be appropriate to celebrate their victory with an ovation. But when they owe the liberation of a friend to the justice, moderation, and magnanimity of a foe, it is well to rejoice for the good fortune of the friend, not to exult over it as a triumph over enemies. Judge Terry was paraded through the streets of Sacramento to the tunes of 'Hail to the Chief,' and 'See the Conquering Hero Comes!' Such an exhibition is trifling, puerile, contemptible. But Terry's friends have never displayed, during the whole time of his confinement, the smallest appreciable quantity of good sense, and it could hardly be expected on this occasion."

A pamphlet of seventy-five pages containing the trial of D. S. Terry before the Committee of Vigilance on seven distinct charges was issued from the press the 2d of September. It was copyrighted by Charles L. Case, a member of the executive committee.

It may well be imagined that there was great rejoicing over the discharge of Terry, and many were the base motives attributed to the executive committee by both friends and enemies. Hear the *Herald:* "He was so just a man that even they, all cankered with revengeful prejudice as were their minds, could find no offence in him, and so discharged him. The most vindictive and purblind bigotry, perjury the most unblushing, slander the most venomous, every dirty artifice that grovelling meanness could invent to his prejudice, espionage the most villainous and contemptible, and all the varied means and appliances of a most extensive and unscrupulous power were employed to crush him. The release of Judge Terry is properly regarded as a great triumph over mob-law. The act performed by the Vigilance Committee yesterday morning is the virtual signature of their death-warrant." How beautiful, and, above all, how true! Some are indeed hard to please. If Mr Nugent spends so much of the vituperative part of his dictionary in cursing the Committee for releasing Terry, what would he have done for words had they hanged him? Mr Nugent was hardly satisfied. He would have

been better pleased to have seen the Committee entangle themselves to their destruction.

The lady friends of law and order presented the bloody-minded supreme justice a silver pitcher with the following inscription: "Hon. D. S. Terry, from the ladies of San Francisco, who admire his courage, honor his patriotism, and take the highest pride in his heroic resistance to tyranny. August 26, 1856."

What would the world be if our wives and sisters and daughters did not think as we thought, did not believe in us, did not regard even our dastardly deeds as heroic actions? God bless their warm hearts and credulous heads; who would have them otherwise!

CHAPTER XXVIII.

HETHERINGTON AND BRACE.

> Bestemmiavano Iddio, e i lor parenti,
> L'umana spezie, il luogo, il tempo, e' il seme
> Di lor semenza, e di lor nascimenti.
>
> *Dell Inferno.*

So absorbed, during the month of July, was the public mind in the momentous affairs of Mr Justice Terry, that the arrest, trial, and execution of two little murderers passed comparatively unnoticed. It was after Terry's trial and before his discharge, while the difficulties of agreeing upon a verdict were pending between the Executive and the delegates, that this tragedy was performed. It was done in close proximity to the ears and eyes of the Texan judge, and as his own fate then lay in restless uncertainty in the same hands, the play was not a particularly pleasing one to him.

And now that the writer of this history has placed the great prime-minister of disorderly law back upon his bench, there once more to deal high and holy justice, as in days past, let the mind of the reader, in common with the excited thoughts of the populace and the strained nerves of the Executive, descend to the narration of the more plain and easy cases of common strangulation. Work must not accumulate at Executive head-quarters, though presidents frown, governors swear, and judges interfere.

Mr Philander Brace was sitting in Barry and Patten's saloon, on Montgomery street, on a Thursday afternoon in June. A newspaper was in his hand and a back window near; alternate glances were cast

at one and the other. Evidently Philander's meditations were of a mixed quality; his visions partook of the character both of a Milton and a Dante. His heaven was the polls, the supervisor's precincts, and law courts, intermingled with a little crib-cracking, drinking and gambling comforts, and now and then a play in which he took the part of chief tragedian. His hell was Fort Vigilance on Sacramento street. Deep in his abstractions at twenty minutes before three, he felt his arms lifted and gently locked each in another arm. Turning his eyes first to one side and then to the other, gradually a realization of his position dawned upon him. "Behold the emissaries of Satan!" he thought. "Hell is here; myself am hell!" Quietly he arose and walked away, like Mary's lamb between two butchers, and soon was assigned a room in the Vigilance Committee building.

The Committee were preparing for the trial of Brace when Terry precipitated his unwelcome presence upon them. At their meeting of the 21st of June it was resolved that when he was tried it should be for the crime of murder, and that the same rules of trial should be observed in the case of the People *versus* Brace, as governed in the trials of Cora and Casey. At the Executive meeting of Tuesday evening, the 24th of June, T. Thompson was appointed prosecuting attorney in the case of the People *versus* Brace, charged with murder, and H. M. Hale attorney for the defence. It was ordered that the trial of Brace should be taken up immediately after the trial of Terry, and that meanwhile all the necessary preparations should be made for the said trial.

As soon as it became apparent that the trial of Terry was destined to be prolonged, the Committee determined to dispose of Brace immediately. His trial was therefore made the special order for Wednesday evening the 25th of June at eight o'clock. Again the trial was delayed, and resumed the 16th of July, at which time the following charges were pre-

ferred: first, robbery of one Willet Southwick the year previous; secondly, shooting and robbing of a Mr Scharff; thirdly, murder of Joseph B. West in June, 1855. To all these charges Mr Brace pleaded not guilty.

The certainty of punishment, I have said, rather than its quality is the fear of felons. One would think that in San Francisco on the 24th of July, 1856, this maxim would hold good if ever. With eight thousand armed citizens standing ready for the arrest, with the fate of Casey and Cora so fresh in the minds of evil-doers, with a judge of the supreme court of the state at that moment in the hands of the Vigilance Committee undergoing trial for his life, it would seem that he must, indeed, be a bold villain to attempt murder with such surroundings. Yet such a villain there was. And the Committee of Vigilance should surely require no further apology for its existence; a disinterested man would certainly desire no more conclusive evidence of its absolute necessity to the life and welfare of society than that men so hardened in criminality yet roamed at large; that human hyenas of so reckless and blood-thirsty character still stood about the streets unchained.

Andrew Randall, physician, residing in Marin county, a native of Ohio, a man respected, beloved, and having a family dependent upon him for support, owed certain money to Joseph Hetherington, an Englishman from Carlisle, an infamous character who had committed many crimes, among others that of the murder of Dr Baldwin in 1853. The first year after his arrival in California in 1849, Hetherington drove a cart, but this was too honest and tame an occupation. He liked three-card monte better, and by this game won large sums of money during the years 1850 and 1851. He was the associate of Whittaker and McKenzie of '51 vigilance notoriety, and in their company committed many crimes; but being a slippery

scoundrel, to whom, in common with all such, the law was exceedingly kind, he escaped unpunished.

Randall's property was in real estate, and he could not pay his creditor. Hetherington insulted him on every occasion, and swore he would have the money or his life. Randall armed himself and went about his business. On the day before mentioned, the 24th of July, Randall entered the St Nicholas Hotel and stepped up to the office and registered his name. The clerk then handed him some letters, while reading which, Hetherington unobserved came in and stepping up to Randall seized him by his long flowing beard, jerking him some five feet from his position, and exclaimed with a horrible oath, "I've got you now!"

Randall attempted to draw his weapon, but Hetherington was too quick for him. Hetherington's first fire, however, did not bring Randall down, and the latter by this time managed to get out his pistol and return Hetherington's shot. Then they both fired again, almost simultaneously; after which Randall ran round into the office and endeavored to shield himself behind the counter. Hetherington then approached him, reached over the counter, and deliberately discharged a ball into his head, inflicting a wound which was at once pronounced fatal. This was about half-past three o'clock on Thursday. Saturday morning at nine o'clock Randall died.

Soon after the fatal shot was fired Hetherington was arrested by a policeman, who started with him for the station-house.

"Not so, Mr Officer," murmured the crowd; "that sort of thing is stale in San Francisco."

Scarcely had the policeman stepped into the street from the door of the hotel when a detachment of vigilants came up.

"Allow me to relieve you," said the officer in command to the policeman, taking Hetherington by the arm.

Without a word the policeman gave up his prisoner

and melted into the crowd. Indeed the law, with all its limbs and branches, was becoming mannerly. It was only such as the imbecile governor, the bombastic general, and the bloody justice of the supreme court that were yet refractory.

Hetherington was taken to vigilance head-quarters and thrust into a cell, heavily ironed. All eyes were now turned to the executive committee. With one accord the people demanded immediate action. "Hang him!" was the deeply muttered verdict, "and now. There is no question as to his guilt. Let him promptly pay the penalty of this most brutal act." Likewise they questioned earnestly, What would be done with Terry? "If the Vigilance Committee once set Terry at liberty," cries one, "and he takes his seat with the immaculate Judge Murray on the supreme bench; and if Johnson, the weak and imbecile governor, remain in the chair of state, with the chivalrous Howard, chief military commander, whose will the Committee be, and where will the citizens find themselves twelve months from now? It is folly to talk. The Committee have only one of two courses to pursue, namely, to make Terry resign and leave the state, or to hang him forthwith. The people are not going to be longer ruled by that quality of domination hitherto administered by certain state and county officials."

But the executive committee were not to be hastened, or swerved from what they deemed a dignified and deliberate course, any more by the zeal of their friends, than they were to be deterred from executing what they conceived to be their duty by their enemies. Hetherington should not be hastened angrily into eternity. Terry, supreme judge though he was, should have as fair a trial as the courts could give him, ay, infinitely fairer.

Hetherington was brought before the Committee for trial at ten minutes to nine on the morning of Saturday, the 26th of July, the second day after the

murder. To the charge, read to him by Jules David, he pleaded not guilty, saying that he killed Randall, but that it was done to save his own life. Nearly the entire day was occupied in the examination of witnesses, and the trial was continued the next day. Smiley was attorney for the defence, and to this day Smiley believes in Hetherington's innocence. There were honesty and sincerity for you, certainly, when a criminal of the deepest dye so worked upon the common-sense and judgment of these hard-headed tribunal men as invariably to make whosoever advocated their cause believe in their innocence, or at least believe that they were justified in committing the crime charged upon them.

At three o'clock of the same day, Sunday, the 27th, Brace was brought in for trial and the indictment read by Mr David. The prisoner at first pleaded guilty, but afterwards changed his plea, saying he was present at the time of the killing of West, but did no shooting.

At half-past five the same afternoon, Hetherington's case was resumed. The testimony finished, a statement made by the prisoner was read by Mr Smiley, who opened for the plaintiff, after which Mr David closed the case for the prosecution. The prisoner was found guilty and sentenced to be hanged. Next day, Monday, the trial of Brace was concluded and a verdict of guilty rendered. On the same evening the delegates met and concurred in the action of the Executive in both cases. The delegates recommended that the prisoners, Hetherington and Brace, should be executed the following day, Tuesday, the 29th, between the hours of three and six o'clock in the afternoon.

It was past midnight before the testimony on both sides had been read before the delegates and their concurrence expressed. The prisoner, Brace, was now brought before the delegates, Mr Coleman presiding.

"Philander Brace, stand up. Have you aught to

say why sentence of death should not be pronounced against you?" asked the president.

"No," said Brace, "except that I am innocent."

"You have been found guilty by the Committee of Vigilance of the crime of aiding and abetting in the murder of J. B. West on Sunday, June 3, 1855, and you are now sentenced by the Committee of Vigilance to be hanged by the neck until you are dead, and this sentence will be carried into effect at or about four o'clock P. M. of this day, Tuesday. And may the Lord have mercy on your soul."

"Is that all,?" asked Brace sneeringly.

"That is all," replied the president.

"Then I am ready," said Brace.

Joseph Hetherington was then sent for and brought before the delegates by the director of police.

"Have you anything to say why sentence of death should not be passed upon you for the murder of Dr Randall?" asked the president.

"I don't know that I have at present," Hetherington replied. He then asked, "Shall I have the privilege of seeing my attorney?"

"Yes," replied the president, who also asked him, "Do you wish to see a minister?"

"I wish to see a minister," said Hetherington, "but I would rather see H. H. Haight first."

The poor fellow was then sentenced, and remanded to his cell.

Mr Truett's law and order brother objected to further strangulations on his premises, although he by no means objected to the revenue derived from their use for vigilant or any other purposes. Davis street, between Commercial and Sacramento streets, was selected as a site for the execution.

By noon on the 29th of July, it was generally known about town that two men at least were to be executed by the Vigilance Committee that day. A scaffold was erected on Davis street, between Sacra-

mento and Commercial, and the entire vigilance force was under arms. Impelled by a morbid love of the horrible, by three o'clock an immense concourse had assembled, filling the streets, balconies, windows, and roofs for four or five squares round. Infantry companies were marched out and posted at various points commanding every avenue of approach to the Committee building. Beyond these the cavalry were stationed. Loaded brass cannon were placed at every corner of the square, and the gunners stood by with torches ready lighted. Thus the military surrounded the entire block within which was situated the Vigilance Committee building. The scaffold rose in a dense square of soldiers four or five deep. It consisted of a platform eight feet square, elevated ten feet above the street on four heavy posts, and reached by steps on the east side. Heavy upright posts on the north and south sides of the platform supported a cross-tie seven and a half feet above the platform. Fastened to the cross-tie were two noosed ropes. Nearly all the platform was a trap, fastened in position by a rope, which on being cut let fall the trap. All the while this engine was building, the vigilant forces were manœuvring about the vicinity, marching and countermarching, all under Marshal Doane, with aids-de-camp riding hither and thither.

About half-past five, everything being in readiness, the prisoners were brought out and placed each in a separate closed carriage, although they had to be taken only round the corner. A procession was then formed in front of the Committee rooms, consisting of the executive committee, a company of pistolmen formed by delegates from each company of the general committee, and the prisoners, with their guards, in carriages. The executive committee took their position to the north of the scaffold, and the pistolmen surrounded it.

One of the carriages then drove up to the scaffold stairs, and out of it stepped an intelligent, fine-

looking man about twenty-one years of age, dressed in black coat, dark vest, checked cassimere pants, and Panamá hat. That was Brace. He was a man of talent and education. His arms were tied behind at the elbows; his hands were in his pantaloons-pockets; his eyes were nearly closed; and every muscle of his pale excited face seemed stretched to its utmost tension in the desperate effort of the young man to nerve himself up for a death of bravado. He was led up the steps by the guard and placed on the south side of the scaffold. From the other carriage Hetherington was taken and placed beside him, both facing the west. Hetherington was a tall man, dressed in black, with a sunburned, full-whiskered face, earnest and serious. His head was covered with a straw hat, and his arms were bound like those of the other. There were on the platform the executioner, in black muslin robe and cap, and several other persons. The culprits' legs were bound, their collars removed, and the noose put round their necks. Hetherington was docile and respectful; Brace twisted his mouth as the executioner put the rope round his neck, and threw into his face a soul-full of scornful hate. The two criminals then shook hands with each other and with several standing near them.

The executioner then stepped back, holding ready in his hand the white caps which should shut this world forever from their vision. Now, O unfortunates! behold for the last time earth with its sea of upturned faces, and sky with its silver-lined clouds rolling in illimitable blue; drink in the last draught of life-giving air, for soon that rope will close all avenues of breath; let lips and tongues now speak, for a few moments hence they will be stiff and black. Ah, thou ugly monster, death, what a mysterious thing thou art! Every one of that gaping multitude has soon to die, the best and the worst, and they all well know it, and yet because these righteous man-killers—always righteous, always sure of heaven, for

so their spiritual physicians tell them provided they can adapt their tongue to certain mummery—because they have to die a few days sooner than those before them they think it hard, very hard. Why, most of the fifteen thousand gathered there are at this writing dead, and yet how many of their names, by reason of their good or evil deeds, are enrolled in the immortal pages of history! How many of them have had their last acts noted, their last words recorded, and handed down to remotest generations!

But let us hear what they have to say while they can speak. And first the new-born angel Hetherington. "Gentlemen, you may think I am a hardened sinner," said he, "but I appear before you mild, unconcerned, and pleased. I know that in a few minutes I must meet my maker. To the best of my knowledge I have not lived one day that I was not ready to meet my maker that night. Do not think I am boasting. Such is not my case. The reverend Bishop Kip has been with me all day, or nearly all day. Have you that all down?" he now asked of the reporters.

"Oh, go on! go on!" here broke in the other criminal, evidently throwing his whole vitality into his nerves that they might not fail him now. "Say what you have to say! Here am I, Brace, murdered by the Vigilance Committee, so and so, like a—"

"I am not more penitent to-day," continued the heavenly minded Hetherington, "than I have ever been."

"Go on, old fellow, go on!" here chimed in Brace. "Hetherington, in less than an hour you and I will be in hell, and the boys will be singing out in the streets, 'Brace and Hetherington's dying speech,' and we shall be roasting in hell! Ha, ha!"

"Our conversation turned upon religion," continued Hetherington, somewhat confused, but evidently referring to his conference with Bishop Kip.

"Damn you, go on!" cried Brace, half crazed. "If I could I would kick you off from there. Go on!

Don't palaver! I don't want to be here to be stared at." His words were mingled with oaths too horrible to repeat.

"If the gentlemen in whose hands I am wish it," meekly replied Hetherington, "I will stop."

"No, no! go on!" cried the crowd.

Hetherington continued in about the same strain with constant reviling and noisy interruptions from Brace.

"Gentlemen," now shouted the latter, "I want you all to understand that I, Brace, am murdered by the Vigilance Committee on the 29th day of July eighteen hundred and fifty-six! Do you understand that? Is that clearly and distinctly spoken?" His knees trembled, his brain whirled, and his heart seemed sweltering in hate. He was certainly an object of pity. Finally it became necessary to stop his outcries, and one standing near put a handkerchief over his mouth, though he cursed the man that did it.

"I defy the whole world to prove a dishonorable act upon me," continued Hetherington.

"Go on, damn you!" exclaimed Brace through his muzzle.

"I forgive every man living as I expect my Redeemer to forgive me," said Hetherington.

"Go on, old hoss!" interrupted Brace.

"There are few men that have lived the life I have, high, pure, and moral," continued Hetherington.

"Damn it, dry up! What's the use talking?" broke in Brace, "I'll roll myself up in the American flag and die like a—"

"I have not had a fair trial," said Hetherington. "No jury would have convicted me. I am here a spectacle to you all. I have prayed from the days of my youth."

The executioner now approached and covered the heads of the condemned with the white caps, during which operation Brace said to him: "If I could have one last request granted it would be that I might hang

with Terry on one side and Hetherington on the other, Christ-like, between two thieves."

The truth is Brace was intoxicated at the time he was hanged. It may seem horrible to launch a soul, drunk, into eternity, that is to say if souls become so affected by intoxicating drink. It created some scandal at the time; but the Committee should scarcely be censured. It is a nervous business to be hanged, and humanity prompted the administering of some stimulant in a moderate degree. The guard told Smiley that Brace had asked for liquor.

"That is a small gratification," said Smiley, "I see no harm in it; but you had better speak to the doctor about it, so that he does not get too much."

The guard afterward told Smiley that not more than a table-spoonful was given him, and Smiley expressed himself satisfied that such was the case.

Dr Cole's testimony on this point is conclusive. In his dictation he says: "Food, raiment, and drink were admitted to these prisoners only upon my written requisition, and I am consequently responsible for all that transpired as growing out of these requisitions, and prepared to verify the statements that I here make. On the morning of the execution of Brace and Hetherington I made my usual visit to the prisoners, found them in usual good health, Hetherington being somewhat depressed, yet evidently making an effort to conceal that fact, whilst Brace assumed, as he had always done when I visited him, an air of bravado, cursing his mother, cursing his fate, his God, his country, and particulary the Committee; yet beneath this manner there was evidently a want of firmness, and I consequently allowed him to have, or prescribed for him, at ten o'clock in the morning, one ounce of brandy, and an hour before his execution one ounce more. And this I solemnly aver was every drop of stimulus that he received during the day of his execution. I positively know it to have been impossible for him to have received from any one liquor in addi-

tion to that which I had prescribed for him, and I know therefore that his whole manner upon the scaffold was that of a desperado."

Durkee charges the trouble to the chief of police, and says: "Truett came in and found out the cause, and steadied him down. They quieted him with valerian."

Doubtless some one out of pity had given him more than he should have. After all, the fault was not a grave one, if it helped the sin-bruised soul through its heavy ordeal.

It was a very hot day. The troops were all drawn up round the square, and there was a multitude of people on the house-tops, every available place of observation being occupied. On Davis street, near where the death-engine was erected, there was a large shed which had been used for storing grain, but was then empty, the top being covered with people. It was old and not very stanch, and all at once down it came with a great crash, bringing all the people with it. Brace was just then making his speech. The soldiers at a little distance were startled somewhat, hearing the commotion but being unable to see the cause. Naturally the first thought of every one was that the vigilants were attacked, that there was a rush upon the prisoners. The military, nominally under Doane, but really under Olney, about eighteen hundred in all, stood at their arms, moving not a muscle, showing not the slightest symptoms of trepidation. Olney came quietly forward at the moment. He glanced along the line; they returned the glance; it was enough.

Finally the signal was given, it being then ten minutes before six; the bell on the roof of the vigilance building was struck, the rope was cut, the traps fell, and at fifteen minutes before six the souls of these two men were sent flying into realms beyond the sky.

Mr Coleman and other members of the executive

committee were summoned by the coroner to testify as to the death of Hetherington and Brace, but most of his questions they declined to answer. Indeed, it was only through courtesy and respect for the law that they answered the coroner's summons at all, for there was then no power in California that could make them attend. They were the sovereign power.

Mr Dows thinks Hetherington not a very bad man, the worst thing he ever did being to kill two men! "Hetherington killed Dr Randall," he says. "He with deliberation killed him; but in other respects he was a good citizen, and never molested anybody. He was not a thief nor a rough character. Brace was a thief and a murderer, and a low man altogether." Yet Brace is spoken of as bright and intelligent, with something of the ministerial look about him, as one of the members remarked. "Hetherington was a gentlemanly, well educated man," says Watkins. "Brace was a desperado of the worst sort."

Hetherington attended carefully to all his business, and the night before his execution carefully filed all his papers. Crary, Bishop Kip, and Fletcher M. Haight were with him nearly all night. He had two chests of clothing, books, and papers in his cell, on one of which Crary was sitting when he dropped asleep, and would have reached the floor had he not been caught by Hetherington, who laughingly said, "Here is one of my terrible executioners falling into my arms asleep!"

CHAPTER XXIX.

ARREST AND TRIAL OF DURKEE AND RAND FOR PIRACY.

> Yet ar these folys ioyous in theyr mynde,
> They norysshe stryfe without ende, them amonge
> And some by falshode can crafty meanes fynde
> By fals delayes theyr mater to prolonge;
> Suche folys drawyth the lawe thus wyse a longe,
> To that intent that by rightwyse iugement
> Transgressours shoulde nat haue worthy punysshement.
>
> *The Ship of Fools.*

ANOTHER important affair which came up during Terry's incarceration, beginning earlier and extending later than the incidents mentioned in the last chapter, was the arrest of Durkee and Rand by order of the United States Commissioner and their trial for piracy.

Though the great dragon, by Judge Terry's bowie-knife argument and the consequent capture of the armories, had received its death-wound, its stinking breath was not yet wholly stopped. About half-past three o'clock on the Sunday afternoon following the memorable Saturday of law and order undoing, while Durkee was sitting on a dry-goods box at the corner of Sacramento and Front streets, serenely cogitating upon the events of yesterday, and chewing the cud of honest content, two deputies of the United States Marshal approached him and read a warrant for his arrest.

It seems an affidavit had been made before George Penn Johnson, United States Commissioner, the day previous, which was the 21st of June, by John B. Phillips, one of the persons in charge of the arms on board the *Julia*, charging Durkee, with his compan-

ions Hutton, Rand, and Andrews, with the crime of piracy on the high seas; "to wit, in the bay of San Pablo, where the sea ebbs and flows, did commit the crime of robbery in and upon a vessel, to wit, the *Julia*, a schooner so called, and upon the lading thereof, and did feloniously and piratically overhaul, board, and rob the said vessel of a large quantity of muskets, of the property of the state of California, and with force and arms did commit other injuries to and on board of the said vessel, contrary to the acts of congress in such case made and provided, and against the peace and dignity of the United States."

The deputies then requested Durkee to accompany them to the United States Marshal's office, corner of Washington and Battery streets. "That is all right," said Durkee. "Put your paper in your pocket and I will go right along with you."

Durkee might easily have resisted, and the Committee would have sustained him in it. "But it struck me like a flash," he says, in his dictation, "that it was best for me to go. Had I refused, the Committee and the United States government would have been at loggerheads." Thus we see there were wisdom and prudence even outside the executive committee. Arrived at the commissioner's quarters, Durkee wrote the Committee informing them of his arrest. Dempster, Dows, and others immediately proceeded to the spot, and told him not to be uneasy. Durkee had no thoughts of being uneasy. There he was kept during the night, every comfort being freely at his disposal. Unlimited bail was promptly offered by the Committee, but the commissioner had no authority to grant bail in cases of the kind. It was at this time, simultaneously with the arrest of Durkee, that the United States sloop of war *John Adams* moored directly in front of Sacramento street—significant, some thought, of federal interference.

During its entire existence, with the exception of Boutwell and certain officers of the United States

courts, whether warranted or not, the Committee rested in the belief that interference, in the shape of actual coercion, would not happen on the part of the federal forces so long as the officers could avoid collision without laying themselves open to the charge of disobedience. This feeling originated in the assurances received that there would be no naval or military force brought against them until orders to that effect were received from Washington. It was with deep regret, therefore, that the Committee involved themselves in a suit with the United States.

The 26th of June the United States Marshal, J. Y. McDuffie, wrote Boutwell, saying that he had then in his custody a prisoner charged with piracy, and asking, in case an attempt was made to rescue him, if the commander of the *Adams* would receive said prisoner on board his vessel for safe-keeping. Boutwell immediately informed the marshal that he would receive the prisoner.

Next morning Durkee was brought into a court-room crowded with anxious spectators, but the case was postponed. According to the laws of the United States piracy was death; any person committing a robbery on the high seas under color or pretence of authority or commission from any person or power was adjudged a pirate, and all who aided piracy or counselled the perpetrators should suffer death. Now might the whole eight thousand hang! Law and order was jubilant. A subpœna was issued by the commissioner for J. R. Maloney to attend as witness. It was placed in the hands of the deputy-marshal, who, as we have seen, on application to the Vigilance Committee was permitted to search their building throughout, but no such person could be found.

Official information of Durkee's arrest was brought before the Executive Sunday evening, accompanied by intimation of danger on the part of his exasperated comrades of attempts at rescue. Whereupon it was ordered by the Committee "that the marshal take the

necessary steps to prevent so gross a breach of military discipline as the rescue of John L. Durkee without orders from the executive committee."

Able counsel was provided Durkee by the Committee. The case was taken from the United States Commissioner's court to the United States District Court, and after several days' discussion the prisoner was admitted to bail in the sum of twenty-five thousand dollars. E. B. Goddard, James Dows, J. W. Brittan, and Samuel Soulé immediately signed a bond for that amount, and Durkee was discharged after one week's confinement.

The action of Durkee in submitting to the arrest was approved by the Committee; and a motion was made by Mr Smiley and carried that Andrews, Rand, and Hutton be requested to submit peaceably to the orders of arrest issued by the United States court.

The men of law were somewhat disposed to play their little prisoner Durkee against the Committee's large prisoner Terry. They did not wish to hang Durkee, though they might be compelled to. The 23d of June Mr Dows reports respecting Durkee, that Messrs Crockett and Duer, appointed by the Committee for his defence, affirmed that there was a strong desire on the part of the law and order party not to press the trial of Durkee, and that in all probability the affair would soon be settled.

Charles E. Rand, one of the associates of Durkee in the capture of the arms on board the *Julia*, was arrested for piracy on the 7th of July. He was immediately admitted to bail in the sum of twenty-five thousand dollars, J. H. Fish, T. J. L. Smiley, N. O. Arrington, and Jules David being his bondsmen.

The United States grand jury on the 3d of September brought in indictments for piracy against John L. Durkee and Charles E. Rand, both of whom were then re-arrested and placed in confinement in the county jail. The Vigilance Committee had before

this adjourned, as we shall see in subsequent chapters. This proceeding of the grand jury coming so soon after the adjournment caused some excitement, and all members of the Committee were ordered to hold themselves in readiness to act when summoned. The exultation of the law and order faction over this ill-timed action of the jury was no less injudicious than murderous. Were it really the desire of these men to precipitate civil war, this was their most direct course. All was now quiet. Even its bitterest enemies were forced to acknowledge that the Committee had done a good work and done it well. They all well knew that Durkee and Rand intended no felony, that they were morally no more to blame for that act than any member of the Committee or than the best man of the community, and they also well knew that the Committee were not made of such stuff as would stand tamely by and see these persons hanged for the doing of a good deed though twenty governments with twenty *John Adams* stood ready to annihilate them. Then would be riot and bloodshed indeed.

These arms, claimed to have been stolen from the state, the Committee seized only that they might not be employed against themselves, and not with intention of using them. Nor were they ever used by the Committee, but were removed from the rooms on Sacramento street on the day of their arrival, and stored in the original packages to be delivered back to the state at the proper time. As long as the governor neglected to withdraw his proclamation it could hardly be expected the Committee would give them up.

The trial for piracy did not take place for several days. On the 11th of September, at half-past one, the case was brought before M. Hall McAllister, of the United States Circuit Court, William Blanding appearing for the prosecution and Mr. Crockett for the defence. It was a most important trial, involving, perhaps, anarchy and bloodshed. The court-room was crowded, and the utmost anxiety was

manifested. The trial, however, was little more than a formality. The prosecution admitted a felonious intent necessary to conviction under the statute, but claimed that this was a felonious taking, and that it was not necessary to show pecuniary gain to convict. The defence argued the usual denial; and at ten o'clock, the court having continued sitting during the evening, the case was submitted. The judge charged the jury that if they believed the prisoners took the arms with the intention of appropriating them to their own use and permanently depriving the owner of them, then they were guilty, but if they took them only for the purpose of preventing their being used against themselves and their associates then they were not guilty.

Huzzah for the law! Justice may yet be had in courts, provided the three parties to a trial, judge, prosecution, and defence, all pull in one direction, and are not over-scrupulous as to technicalities. The charge was most favorably received by the spectators; their rising applause was checked and the jury signed to retire. Five minutes only they were absent, and then a verdict of not guilty. Order could no longer be kept in court. The smothered feelings of the audience now broke forth in loud cheers and clapping of hands. The prisoners were immediately discharged, and were triumphantly escorted to the Committee rooms by the vigilants, amidst the shouts of the multitude. A procession was then formed, and headed by a band of music, this final happy triumph of the San Francisco Vigilance Committee was celebrated by marching the streets and general rejoicing.

Durkee tells his story in the following words: "They did not want to have any hearing of the case, because they wanted the Committee to commit some overt act. I was not at all frightened. The penalty was death, hanging at the yard-arm. They had the sloop of war *John Adams* brought down so as to take me right aboard in case of my conviction. I never had

an idea that I should get aboard there if convicted. The Committee would have looked out for that. They had a great many men under arms at the time. If there had been a jury to try me the same as the grand jury, there would have been no trouble about conviction. The grand jury was a packed jury, anti-vigilance men. The petit jury was a different affair. My counsel had the names of all the jurors before the trial. They knew who they were and all about them. The Committee had the history of every man who came to the country. I knew when the first man got drawn on the jury that I should not be convicted. He was a member of the Committee and his name was Bayleys." All which shows that the law may be warped to fit a good purpose on occasion.

The Committee were weary, very weary, of the whole affair. They had hoped to retire by the 4th of July, and then again after the discharge of Terry, and but for the indiscreet action before the United States district court would have done so. The country needed repose, the Committee needed repose after their months of harassing excitement. All this while the Committee had directed its effort toward the final accomplishment of its mission and toward calming the public mind when the indictments were issued against Durkee and Rand for piracy, and the old sores were opened afresh.

At every step in this movement, from first to last, one cannot but remark the difference in the motives actuating the one side and the other. The sole desire of the Vigilance Committee was to promote the general good; it was peace and morality only they sought, and this in all charity and unselfishness, while the actions of the opposition, lawyers, shoulder-strikers, and officials, seemed governed only by jealousy, hate, and an insatiable thirst for retaliation and revenge. Not that their patriotism so warmed them toward the rights of constitutional government, but

because they themselves had been touched, their conduct questioned, and their misbehavior condemned. They cared not one whit for the state, they cared not one whit for the right, they cared only for themselves.

If their jealousy and hate gave them time to consider they could not but see that their course in this piracy matter was directly opposed to the public good, and must be forever deplored by right-minded men. There was no piracy intended or committed. There was not one of these grand jurymen, officers, judges, or lawyers who for a moment believed that Durkee or Rand contemplated such an act or committed such an act as robbery upon the high seas. They were officers acting under warrant of the then existing supreme powers, and this charge was thus disgracefully brought against them only out of hate and revenge. "Even the judge of the United States district court," says the Sacramento *Union*, "appears to be operated upon by this personal feeling, if we are permitted to make up our conclusions from his past acts."

I see, though they cannot, more of the mob spirit in these officers of the law than in the Vigilance Committee; I see, though they cannot, more passionate display of feeling, less of settled principle, more revenge, less patriotism, more selfishness, less care for the welfare of the state in these zealous guardians of the law, than in those who for virtue's sake broke the law. Under their iron heel of power I see judges crush justice, and officials display a spirit dangerous to the commonwealth, a spirit far more anarchical than that which pervades the deep loyalty which will not suffer our honored institutions to be wholly prostituted.

On the 25th of June, the Committee held confined as prisoners fifteen persons, besides several as witnesses, which subjected them to the expense of a strong guard and other heavy outlays. Three were released

the day before, after signifying their assent to the requisitions of the Committee, which were that they would never bear arms against the Committee.

The cells of the Committee were again emptied of their contents, save only the prisoners Terry and Brace, by the steamer *John L. Stephens* of the 5th of July; on which occasion departed T. B. Cunningham, J. R. Maloney, Alexander Purple, Dan Aldrich, Tom Mullory, and L. Mahoney. Experience constantly developed new forms of doing business. Criminals were now required to put their exile papers in the form of prayers requesting permission of the Committtee to depart never to return. The order granting their prayer reads as follows: that whereas they had "been charged with various offences against the peace and good order of the state, now therefore in case the above-named parties pray to be allowed to leave the country, be it resolved that their prayer be granted upon the special condition that they never return under the severest penalties, and that they be warned thereof."

While Terry was in durance, and vigorous efforts were being made for his release, Mr Dempster had occasion one evening to leave the Executive chamber for a short time. On returning, the sentinel at the door addressed him, calling him by name. In the dim light Mr Dempster did not recognize him, and demanded who he was. The man gave the name of a Methodist clergyman who had been compelled to abandon preaching for farm labor on account of his health.

"What brought you here?" asked Mr Dempster.

"Hearing that the Committee were about to be attacked, I deemed it my duty to come to town and offer my services. I was enrolled this morning and put here upon guard and have been here ever since. Either vigilance watches are very long or else I have been forgotten. At all events my stomach tells me that something to eat would not be out of place." It

is singular into what predicaments duty sometimes calls ministers of the gospel. The truth of this matter was, the man wanted the twenty dollars a week and could earn it more easily standing sentinel than pruning grape-vines; hence the call of duty.

Again at the meeting of Monday morning, the 14th of July, the question of office arose in connection with the increasing power of the association. Political proclivities were manifest in certain quarters, and it was feared that these, as is invariably the case, would tincture justice. The moment a member was suspected of being open to the influence of politicians, that moment his associates lost confidence in him. He was not one of them; no longer a single-hearted, true man. "Whereas the Committee of Vigilance," says the record of proceedings of the 14th of July, "as a body have no political objects whatever, and its members desire to keep free from identification with political aims; therefore, resolved, that no member of the executive committee or other prominent officers of the Committee of Vigilance shall, with the sanction of this body, accept any appointment to public office." Three days after William Rabe was suspended "for having attempted to introduce politics into this body and for attempting to overawe the executive committee, and that his case and all his communications be referred to the board of delegates for their action."

About the middle of August the schooner *Exact*, which had been purchased with the intention to send it in search of Edward McGowan, was sold for the sum of twenty-four hundred dollars, and the money paid into the treasury.

At a meeting of the executive committee, held the 1st of September, a committee of five was appointed to take into consideration the propriety of publishing a complete history of the origin and doings of the Vigilance Committee, with collateral facts and testimony.

"One of the favorite arguments used by the apologists of the Vigilance Committee," says the *Herald* of the 28th of September, "during its reign in this city to quiet the apprehensions of even those who, though they sympathized to some extent in the course pursued by the Committee, yet could not conceal their apprehensions for the future, when executions and banishments and domiciliary visits and arrests followed in quick succession, was that after the work which the Committee organized to carry out was accomplished and the testimony which they had taken before them and upon which their action in every instance was based, was published, everybody would be satisfied. We have waited patiently for some time past for the publication of the entire testimony taken before the Vigilance Committee, but up to the present hour it has not made its appearance. It is true that the testimony taken in the case of Judge Terry has been published, but that is surely not all the testimony that has been taken by the Vigilance Committee. If it was just and proper that the testimony in this particular case should be published, why not the balance? For upwards of ninety days the Vigilance Committee was the *de facto* government of this city. If it ruled at all, it ruled over the whole people of the country—friends as well as foes. At the time, resistance to its mandates by any one individual would be nothing better than foolhardiness, and though every individual in the community was not obliged to formally acknowledge its sway, yet if the contingency should arise, they would have been obliged to do so. Hence it is that every person in the community, no matter whether he may have been a member of the Vigilance Committee or a sympathizer in its action, or its bitterest foe, has a right to demand that he shall have an opportunity to examine for himself the premises from which the Committee deduced the conclusions to which in every case before them they arrived. All we know at the present time—all anybody knows, is that certain individuals have been executed and certain other individuals have been banished by order of the Vigilance Committee, but whether the sentences pronounced in all and every case before them, even admitting for the sake of argument that they had a right to sit in judgment upon the lives of their fellow-citizens, were in accordance with justice, cannot be determined. It will not, we think, be claimed by the most enthusiastic supporter of mob-law, that either the executive committee or the general committee were infallible. To err is human, and if errors have been committed, we, as one of the governed, have a right to know whether these errors are to be set down to that common trait in the human character, or to passion and prejudice. Some of the cases disposed of by the Vigilance Committee had previously undergone investigation in the courts, and in relation to them, it is well known that a great diversity of opinion prevailed. Now it is due to the community that the Vigilance Committee should spread before the public the testimony in these cases, in order that people may be enabled to form an opinion as to how the Vigilance Committee could come to a conclusion in cases in which respectable juries had previously disagreed, and as to whether the additional light thrown on the facts, if any, on the trial before that body, justified that conclusion. It surely cannot be expected that men in whose hearts the faintest glow of a love of liberty remains will be willing to place not only their lives and property but their consciences, in the safe-keeping of a vigilance committee. It cannot be

supposed that by consenting to the establishment of a vigilance committee the people surrendered all right to think for themselves and form their own conclusions upon passing events. But we think we have said enough upon the subject to show that it is a duty which the executive committee owe to themselves—a duty which they owe to the community at large, without distinction, to publish to the world the testimony which they have taken in every single case examined and passed upon by them, or if it would be too expensive to publish, at least to place the testimony where it can be examined by every citizen who may have doubts as to the justice of this sentence or that."

Not less than a score of writers conceived plans, and made efforts toward their execution, of producing a history of the vigilance movements, but all such attempts were incontinently frowned down by the Committee. Foremost among these was Mr Rhodes, who over the *nom de plume* of "Caxton" had done valiant work on the side of vigilance.

The following explains his ideas:

"San Francisco, Oct. 13, 1856.

"*To the Hon. the Executive Committee of the Committee of Vigilance:*—

"Gents: At the request of a number of gentlemen, members of your association, I have consented to write a historical sketch of the Vigilance Committee, provided access would be afforded me to the record of that body for such information as cannot be elsewhere obtained of an authentic character.

"The sketch will not include the publication of evidence, and is not designed to implicate the characters of those who have in no manner been punished by the Committee.

"Please let me hear the result of this application at as early a day as possible. Respectfully, your obed't

"Wm. H. Rhodes."

The book was not written; the time was not ripe.

CHAPTER XXX.

THE PUEBLO PAPERS.

Nam curiosus nemo est, quin sit malevolus.
Plautus.

One day there came to the Committee rooms an old Mexican, named Tiburcio Vasquez, being in great trouble as to the whereabouts of certain papers alleged to have been taken from him fraudulently by Alfred A. Green, a member of the Vigilance Committee. Now it was not uncommon for old and young Mexicans and others to bring their griefs, of whatsoever kind, and lay them at the feet of vigilance; but it was a rare occurrence for any one to come to the Committee and complain to it of one of its members.

The Vigilance Committee was by no means intended as an association for the protection of criminals, though some bad men sought to shelter their iniquity under the shadow of its wing, and Green was one of these. Tiburcio Vasquez found attentive listeners to his tale. The matter was thoroughly examined, and the Committee came to the conclusion that the Mexican's story was true, and that Green was a bad man.

The facts of the case were these. Through his wife, who was a Mexican, Green had learned that the papers establishing the bound and title of the town of Yerba Buena to her pueblo lands were in the possession of Vasquez, formerly superintendent of Mission Dolores, and keeper of the mission archives. Vasquez lived at his rancho in San Mateo county, some twelve leagues hence.

Most of the papers belonging to the mission, Vasquez had given up to the comandante at Yerba Buena. But it appears that certain old Californians, believing that the English would yet deliver them from the hands of the Americans, and restore their country to the Mexican government, had agreed among themselves to keep back such papers as referred to the pueblo's title, neither to give them to the Americans, nor yet to destroy them.

Almost the entire northern end of the peninsula of San Francisco was at that time lying under the curse of disputed titles. Scores of fraudulent claims, arising often from forged grants, wherein the audacity of the claimant was equalled only by the magnitude of his swindle, filled the courts, and kept real property in a constant state of feverish excitement. Green saw money in these papers, if peradventure he might clutch them. To obtain them by fair means was impossible. The Californians knew their value, and would not part with them. Villainy being determined on, there were two ways of accomplishing it. First, by stealing them outright, though this would be attended with danger of San Quentin when once they were offered for sale; and secondly by stratagem. As the other documents belonging to the Mission Dolores archives had been obtained by order of the government, these might be gained possession of by some such method. But how obtain such an order? Let Green alone for that. He would make it a mandate of the court. That would be better still, as ignorance always stands in awe of written statutes and their ministers. But first he would know somewhat more of the situation of the coveted papers.

Green kept a hotel, attached to which was a racecourse, and his place was a favorite resort for Spanish-speaking Californians. Often he had heard them in their cups discuss the wise discrimination of the land commission which was constantly confirming fraudulent titles and rejecting good ones. Among

them was one Sanchez, who seemed to be an authority on the subject; and he was heard to say that from Buri Rancho to the Golden Gate there was not held by the occupants of the land one genuine title. A keen observer might have noticed an increased interest in these conversations manifested by Mr Green, and also unprecedented liberality in the distribution of liquors among his garrulous loungers. About this time Green held a conversation with James A. McDougall, lawyer and politician, upon the subject. In 1852 McDougall had filed with the land commissioners a petition on behalf of the city for the pueblo lands. He had no proof as to the correctness of his premises and proceeding, but he thought he was right. When Green mentioned to him his suspicion as to the nature and existence of the pueblo papers, McDougall was struck with a sense of their importance, and so expressed himself to Green. This fired Green's zeal, and he determined to delay no longer in placing them in his own possession. In his own words of affected patriotism, he "felt a deep and ardent interest for the preservation of the city from the fraudulent claims that were consuming her possessions."

Putting two bottles of liquor into his buggy, he drove over to see Sanchez. Sitting, and talking, and drinking, under the friendly agency of the liquid barriers were broken, and the conversation grew patriotic and confidential. They spoke much about lands and titles, and the doings of the Yankee government in regard to confirming grant-holders in their possessions. Green had a smooth tongue, slightly forked perhaps, and could talk well upon any side of a subject, particularly upon the side on which his interests lay. Finally, as one bottle was already consumed, and the other well begun, Green remarked,

"I think you slander our government in saying it confirms only fraudulent titles."

"No, señor," replied Sanchez. "I am no slanderer."

"But you say that the citizens of San Francisco

have no valid titles to their lands. Is not this a bold assertion?"

"Yes, señor, but it is true. There are the documents not far from here that would amply prove it."

"Where?" eagerly asked Green.

"Why should I tell you?" demanded Sanchez, his suspicion aroused.

"Am I not one of you? Are not my family and my interests one with yours? You do me wrong to withhold your confidence. I understand the Yankees and their sly ways better than you. Perhaps these papers might do us all good service. Tell me, if you value my friendship, where are they?"

"In Vasquez' bedroom, boxed or buried beneath his bedroom floor, I know not which." At that moment the wife of Sanchez entered the room just in time to catch the significance of his words, and, woman like, she made matters quickly worse by trying to better them.

"Pay no attention to what he says," she exclaimed warmly, "he doesn't know what he is talking about."

"It is nothing, señora," said Green. "What Californian is there who in some old torn letters does not imagine he has a mine of historical or statistical wealth?" So saying he warmly embraced the couple and hastened away.

There was now no time to be lost. Sanchez had betrayed the secret of his countrymen, and his wife was aware of it. The alarm would quickly be given and the precious documents spirited away.

Green drove as rapidly as possible to McDougall, arriving at his house after dark. Relating the circumstances of the case thus far, he asked what he should do.

"Get the papers," said McDougall.

"But how?" asked Green. "Will you obtain for me an order of the court?"

"There is no court in session," replied McDougall. "You must use your wits; employ stratagem."

This conversation I gather from Green's sworn statement in court four years after the occurrence. Green states, though his character should be considered in receiving the statement, that he asked McDougall "if he should write an order purporting to be an order from the court to Tiburcio Vasquez to deliver them up, signing the name of the court, would he be justified in such a course?" He then says that McDougall "advised him to do it."

However this may be, Green acted as though he had authority for the perpetration of fraud from some quarter, for he cut himself entirely aloof from conscience, and even criminal decency. Going to a pliant tool of his, Nat Hicks, he said: "Nat, take your pen and write." Nat wrote:

"*Tiburcio Vasquez:*—

"SIR: You will deliver the bearer forthwith all papers in your possession relating in any wise to the title of the city of San Francisco in and to her pueblo lands. And herein fail not under penalty of the law.

[Seal] "By order of the Court."

The seal consisted of a liberal application of wax stamped with a silver half-dollar. As Vasquez could not read, the form was everything, and one was as good as another.

To Vasquez, then, Green accompanied by two or three of his brothers went, and delivering him the order, firmly demanded the documents, adding that Vasquez might consider himself fortunate if no trouble came upon him in consequence of his having withheld them so long. Vasquez was quite frightened, and immediately handed over the papers, but with sufficient presence of mind to demand from Green a receipt for them. Green wrote a receipt, signed it Alfred A. Crane, and gave it to Vasquez; that is to say scores of people read the signature Crane, though Green swears in court that he intended it for Green, but that he did not write very plainly.

The papers thus in his possession, Green did not know what to do with them. Selecting a few of

the most important, he showed them to McDougall. "There are millions in them," said McDougall, "but unfortunately I must start for Washington within two days." What should he do with his ill-gotten plunder? Naturally enough his thoughts turned on the mayor, Charles J. Brenham, to whom he exhibited some of his choicest specimens. The mayor appointed a commission to examine the papers, but being themselves interested in fraudulent titles, this commission reported adversely to Green. When C. K. Garrison was elected mayor, Green tried again. "Come in, Mr Green, come in," said Garrison, when the patriot with the city's destiny under his arm rapped at the mayor's office door. "Let us take a bottle of wine together." Green had spoken to Garrison about the documents, and the latter now turned over with evident interest those placed before him. Finally raising his bovine head, he fixed on Green his bovine eyes, and opened his bovine mouth:

"These are very valuable papers, Mr Green, very valuable. It will be the duty of those who guard the city's interest some day to place them all on record, so that the city shall have her rights in the matter, her rights, Mr Green. I would take the initiatory steps myself, Mr Green, but, pardon me, Mr Green, the fact is, I hold a trifle in adverse titles myself, just paid fifteen thousand dollars for a Potrero title, Mr Green."

"Yes," replied Green, "but you must know that those titles are fraudulent, valueless, if these papers are shown."

"True, true, Mr Green. Let me sell some property; let me get rid of these interests, and then I will take a hand with you and prosecute the city's title to the pueblo. I agree with you entirely that it is the duty of the officers of this municipality to look well into the matter, protect the city's interest, and that, too, sharply, Mr Green, sharply, sharply. Besides there's money in it, Mr Green. Good-day, sir."

Poor Green! His plunder would not sell. He

wrote to the press, but no newspaper would print his articles. It was too long and laborious a fight for any journal to take up on its merits. It would be unpopular, for everybody was interested more or less in fraudulent titles, not knowing them, in most instances, to be fraudulent. There was neither money nor popularity in it; who was foolish enough to look for abstract good in a newspaper man more than in any one else? The lawyers, too, were against him; the city would not pay them for their wily arts like a multitude of swindled and swindling citizens. He tried lecturing, but he was unlearned and timid, and the public did not want to hear him.

He told the people at Musical Hall the 21st of April, 1856, that the Hispano-Californians had always cherished the belief that Santa Ana would with British men or money regain possession of California, in which case by means of certain documents, about five hundred in number, which they had retained in their possession, the original occupants would be reinstated in their rights, and their lands given them back according to ownership before the coming of the Americans. This led the Californians, he affirmed, to look with indifference on the doings of the land commission. Their documents they had buried at a place thirty miles from the city, but he had, purely in the city's interests, obtained possession of these, as he called them, lost archives, by means of which he would be able to establish the city in her pueblo title. The papers told him, said Mr. Green, that a pueblo, and only one pueblo, had been established here, and that pueblo at different times had been known by different names, such as San Francisco de Assis, Mission Dolores, and Presidio. For his untiring energy, great expense, and patriotism he merely wished a trifle, two or three hundred thousand dollars. For the rest an approving conscience would be his reward.

Thus matters stood when the attention of the Committee was brought to the subject by Tiburcio Vas-

quez. There was ample room for action. First, Green was a member of the Committee, an association formed for public benefit and not for public plundering. Secondly, Green was a sharp practitioner, playing fast and loose with rascality and the city's interests. Thirdly, it was one of those cases that the law never could or never would reach; there were too many Garrisons and Brenhams in office. The Committee felt bound to undertake the righting of this wrong, although they fully realized that it would prove very laborious, very expensive, and that for a time their only recompense would be ingratitude.

If placed within reach of the city, and of those claiming under the city, it would establish the city's right to all those outside lands claimed under the old Mexican pueblo grant. If lost or suppressed, forged titles, in many instances, would hold, and honest men be cheated. Beside which, there was much litigation and many feuds, and pitched battles which these papers would peaceably determine.

Green had brothers more or less implicated with himself, one of whom, John L. Green, was likewise a member of the Vigilance Committee. The 13th of July the Committee ordered the arrest of the whole fraternity, Alfred A. Green, Henry Green, Robert E. Green, John L. Green, Benjamin P. Green, and Daniel Green, charging them with high crimes, namely, of having in their possession certain papers said to be sufficient to establish the fact that San Francisco, at the time of the American conquest, was a pueblo or incorporated town. These documents Alfred A. Green, assisted by his brothers, was holding as a sort of black-mail over the title to city property, offering them alternately for sale to the city, and to claimants under spurious grants, such as the Bolton and Barron, Limantour, Potrero, and other adverse titles. At the Musical Hall meeting, some seven months previous, a committee had been appointed by the citizens to examine the nature and genuineness of the papers, which

committee reported favorably to the owner, Green, and stated that they could be bought for fifty thousand dollars. The reputed wonderful discovery of the papers and the manner of the whole proceedings connected with them seemed so like a swindle that property holders held back, so that from lack of confidence the scheme fell through, and Green renewed his efforts to effect a sale to adverse claimants whose interest it was to cloud the city's title for the purpose of extorting black-mail from occupants. Alfred had been a member of the legislature, which added nothing to his respectability.

Long before daylight next morning a detachment of vigilants, some thirty in number, half of whom were mounted, and the remainder in two furniture-cars and a barouche, were dispatched to the mission to make the arrest. The Greens, roused from their morning nap, were requested to dress and follow without waiting for breakfast, which they incontinently did. The party arrived at the Committee rooms about six o'clock, and three of the brothers were at once accommodated with cells. That same night fifteen persons, part of a gang organized for evil purpose, were arrested by the vigilants and confined at the Committee rooms for disturbing the peace and attempting to break up the citizens' mass-meeting.

By this arrest the men were secured, but not the papers. The same day ten vigilants were sent to search Green's house and the house adjoining for the documents, but their efforts proved unsuccessful. Meanwhile Alfred A. Green was brought before the Executive and made to confront Tiburcio Vasquez, each of whom made a sworn statement before the Committee. Daniel Green was also brought before the Committee and identified as one of those who came with Alfred to demand the papers. On the 15th Daniel and Benjamin Green were discharged from custody upon giving their parole to come at the bidding of the Committee.

Green at first was badly frightened, thinking he would be hanged; but when he learned that he was safe from that punishment he became defiant, and the Committee hardly knew what to do with him. Some regarded his crime as equal to or greater than that of murder, but unfortunately their regulations forbade their hanging him. He had kept the papers under his bed jealously guarded. When arrested they were not to be found by the Committee. Now Green refused to disclose their whereabouts; nor did the Committee feel disposed to take them from him by force and without remuneration, even though he had obtained them fraudulently.

At length Green was brought before the Executive and asked what he would take for the papers. He replied fifty thousand dollars. He was sent back to his cell until his ideas should be modified. The 28th of July the committee appointed for that purpose reported that Green would select from the Executive two of their number whom he knew, to whom on his release from custody he would deliver the papers without reservation, and that said sub-committee should hold the documents until Green was remunerated for their surrender, either by the city or by those interested in the city's title. Meanwhile Green pledged himself not to negotiate with any person adverse to the city's interest, and that he himself would attend to raising subscriptions for the payment of the papers, which sum should not exceed twenty-five thousand dollars. At any time within twenty days after the possession of the papers the Committee should have the right to take them for the sum of ten thousand dollars, or reject them.

Further than this the papers were to be submitted to the city attorney, and if pronounced by him of no more value than official documents appertaining to the former government, they should be surrendered to the city unconditionally. As a condition of the agreement Green exacted that the Committee should place in his

possession the forged order and receipt obtained by them from Vasquez, as being of no particular value to them, but of some to him.

Evidently Green repented of his offer, for the moment the Committee attempted to carry it out he evaded the issue at every turn. An armed escort was prepared to attend him to his house and bring back the papers, but to this he objected. Conveyed thither in a carriage he pretended great displeasure at the manner in which his family had been treated by those sent to search his house, and he would submit to divers transformations and annihilations before he would give up the papers at any price. So back to his cell he was carted, there to think further on it.

Another agreement was then entered into with Green, which was that the Committee should take the papers and be allowed forty days within which to pay twenty-five thousand dollars, or they could take them within ten days for fifteen thousand dollars. This last proposal was made the 31st of July.

Finally the Committee concluded that Green might be justly entitled to the sum of twelve thousand five hundred dollars, and this amount the holder of the documents agreed to take. The money was raised from voluntary contributors who trusted the city to refund it them. The money was paid on the 27th of September at the banking house of Abel Guy. Certain creditors of Green having received intimation that money was to be paid him then and there, watched the premises with writs of execution, and when Green came out and dumped his bag of coin upon a cart they pounced upon it and made him disgorge, greatly to his discomfiture. Such is the reward of rascality.

The following appeared in certain journals as an advertisement on the day of the date mentioned:

"TO THE PUBLIC.

"The Committee of Vigilance have purchased from Alfred A. Green for the sum of $12,500 the pueblo papers, which establish beyond doubt the city's

right, against all adverse claims, to property far beyond the Vallejo line, the limit fixed by the United States Land Commission. They have secured the able services of Hon. S. W. Inge, late United States district attorney, to use this testimony in the United States district court, where the city's claim is now pending; and also, should it become necessary, to attend to the case in the United States supreme court.

"The purchase money has been advanced exclusively by members of the Committee of Vigilance, with the understanding that the amount would be repaid as soon as collected from the parties the most directly benefited by the acquisition, who are deemed to be the proprietors of land covered by the Limantour and Bolton and Barron claims, and which, according to the county assessment of the present year, represent a value of $5,673,000. Upon this amount it is proposed to levy a tax of one half per cent, or $28,365, in case the whole should be collected; but considering the number of those who have already procured the adverse title, it is supposed that not more than two thirds will be realized, an amount not more than sufficient to reimburse the present advances and defray the legal and contingent expenses of the suit. Should, however, any surplus funds remain on hand, the same will be given to the orphan asylum of this city. It is unnecessary to repeat that the acquisition of these papers has been made by the Committee solely for the public good. The undersigned have given and will continue to give their services gratuitously, and appeal most confidently to the property-holders above mentioned, to aid them in the good work by promptly paying the small sums asked from each. Parties empowered to collect will be provided with the written authority of the undersigned, under the seal of the Committee. Copies of the pueblo papers will be immediately filed in the United States district court, and the originals will remain for safe-keeping in the possession of the undersigned, until they are required in court.

"In behalf of the Committee of Vigilance:

"JULES DAVID,
"GEORGE R. WARD,
"T. J. L. SMILEY,
Special Committee."

"*San Francisco, Oct. 15, 1856.*

The 13th of July, 1857, John L. Green and Daniel Green brought suit against the Vigilance Committee, mentioning several of the executive committee by name, each asking fifty thousand dollars for divers infelicities arising from their arrest and imprisonment by the Committee. Failing in this, the 16th of July, 1860, John L. Green again appears in court against William T. Coleman and others, asking as usual fifty thousand dollars. John Nugent appeared in court as attorney for the plaintiff. After a four days' trial the jury gave him, or rather themselves, as it just covered

their fees, one hundred and fifty dollars, throwing the costs of suit upon Green.

Thus closed the famous Green affair. We note the presence of the *Herald's* editor in this suit, which but for him, perhaps, never would have been brought. How deep the pools of this man's dark unrest which years of sunshine could not assuage! The embers of the past he never ceased to rake, if happily he could find some spark of malice which might be kindled into a flame. For over two hours at the close of this trial he pleaded a lost cause. In this, his maiden speech before a San Francisco jury, he indulged in some wild remarks which may be accounted for only upon the hypothesis that they were begotten of revengeful longings. "We are on the eve of great events," he said; "before twelve months will pass away it is probable this union will be dissolved. It is probable that internecine war will rage in this confederacy within twelve months, that the union will be disrupted, broken into fragments, and that we will have to form ourselves into an independent government upon the Pacific coast." Since the collapse of his journal incident to the withdrawal of vigilant patronage, in the science of prognostics Mr Nugent has shown himself an adept. To be sure of knowing what would happen, in political circles particularly, and as to the evil which would befall his enemies, we have only to reverse his opinion to reach the truth by the most direct route.

CHAPTER XXXI.

FINAL ADJOURNMENT.

"I would give my life for such a moment, such a day," said a carpet courtier to Cromwell as he was entering Whitehall to be made Lord Protector. "A fine show, no doubt," replied the great Oliver, "but there would be a grander display than this if I were to be hanged."

AGAIN on the 8th of August the attention of the Executive was turned toward adjournment. On that day a review was made of what had been done and a survey of what was yet to be done, and after full discussion they concluded that by the 18th they might announce the termination of their labors for the 21st, on which day there should be a grand parade of the entire body and after this a review of the troops by the Executive.

They would retire from their labors publicly. They would dismantle their fortress and abandon their military quarters, they would cease their public and palpable existence, but they would not disorganize. The outward manifestation of popular power should disappear until again invoked by necessity; but its subtile essence should always remain in the hearts and heads of the people, ever ready for instant expression. Ten days would thus elapse between the declared intention and its public announcement, during which time all business should proceed regularly as hitherto, and expenses if possible be brought down to one thousand dollars a week.

Arrangements for the final parade should be under the direction of the marshal, and a committee of five delegates, and three from the Executive. After the

21st the executive committee should hold sessions three times a week; and above all the strength of the association should be applied to the raising of money for the complete discharge of their heavy obligations. Though in the midst of arrests, fulminations, and expatriations, the cells of Fort Vigilance were now nearly empty, and the black list still needed some revision.

Mr Dempster, Mr Smiley, and others were appointed a committee to prepare an address from the executive committee to the general committee of vigilance on the occasion of its retiring from active duty. The plan of adjournment was laid before the delegates at a meeting of that board held the 13th, and was fully approved; the 18th of August, instead of the 21st, being finally fixed as the day of demonstration. The gunny-bag barricade was taken down the 14th. At the Saturday afternoon meeting of August 16th the rooms of the building were ordered thrown open to the members of the committee, their friends and families, the next Thursday and Friday, the 21st and 22d, from ten o'clock A. M. till five o'clock P. M. of each day, notice of the same to be posted in the building and published in the papers. A committee of five was placed in charge of the reception.

For three months this organization had been in active operation, during which time it not only retained the support originally given it, but had gradually increased in strength and in the favor of the people, until its enemies even felt their maledictions upon it to be infinitely more damaging to themselves than to the organization.

The predictions of the law and order party concerning the evil effects which were to follow, fell to the ground. There was no reaction, no domineering mobocracy, no attempt to seize the reins of government, no intoxication incident to possession of supreme power.

The Committee determined not to disorganize, but

to adjourn *sine die.* The general organization would be kept up complete, and all members were to hold themselves, as hitherto, instantly subject to the call of the executive committee. Each company was to continue its independent organization, and the executive committee were to retain their rooms with a few officers constantly on duty, where they would meet at stated intervals and consult as to the welfare of the city.

The truth of the matter is, the Committee were as much a living organization after adjournment as before. At an Executive meeting, held the 23d of January, 1857, I find the following motion made and carried: "That the grand marshal be requested to report to the president of the executive committee the number of men he could collect within an hour's notice in case of emergency." Marshal Doane's reply at a subsequent meeting was that "any number of men could be relied upon in case of emergency."

Meanwhile P. J. Hickey was notified to leave the state; and it was ordered, as late as the 21st of August, that notice should be given through the public papers to James Cusick, James Thompson, *alias* Liverpool Jack, and James Hennessey, who had fled to the interior, that they might depart unmolested by the steamer of the 5th of September, but that failure to avail themselves of that privilege left them under the death ban should they afterward visit the city.

The 19th Jacob Ritchie was discharged. It was likewise resolved on that day by the Executive, "that if J. W. Bagley is found in San Francisco after the 20th inst., he will be immediately executed without trial."

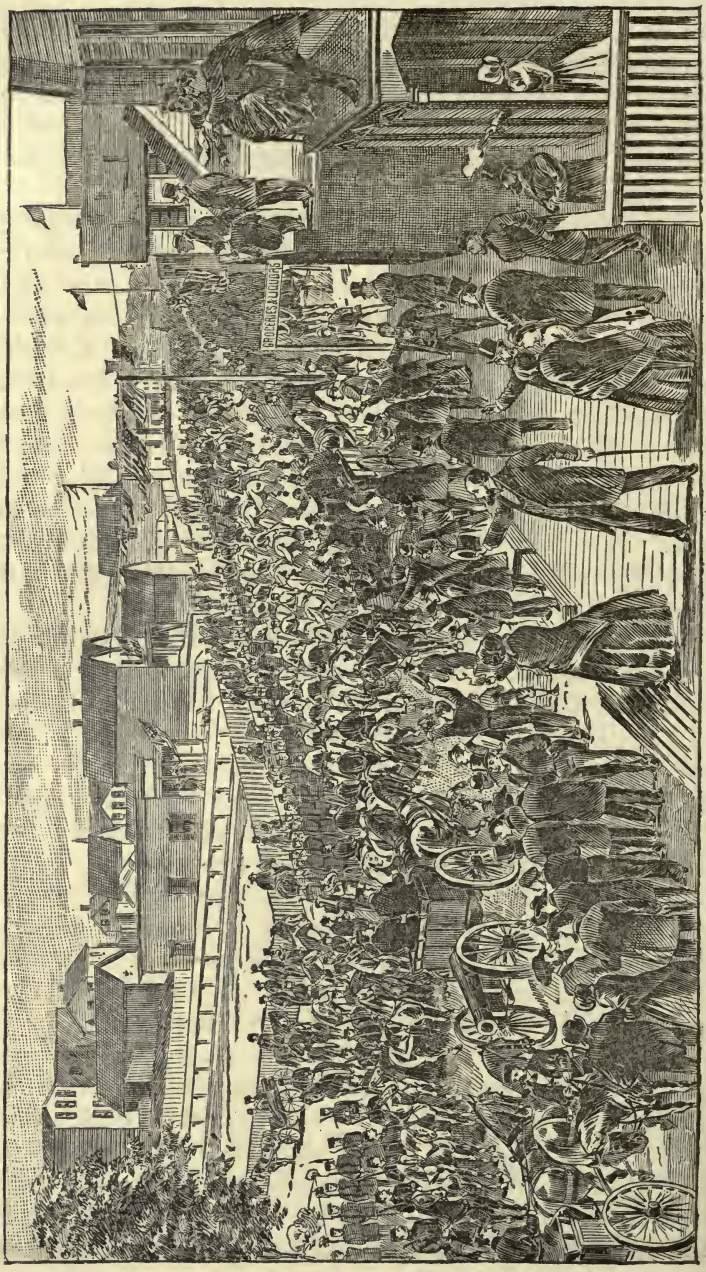
Fear of the federal authorities could not be imputed to the executive committee, or fear of anything, for the present release of Terry, or for their adjournment. For President Pierce had just before announced that until the legislature of California should meet and request federal interference, he should not interpose;

or, in other words, until his personal affairs were arranged, and his party interests looked after, the people of California could cut each others' throats to their hearts' content. Patriots of the Pierce order are not greatly given to sacrificing themselves for the welfare of their country.

This final demonstration was indeed an imposing affair. It was, of the whole crusade, the one single public boast. Coming at this time it was a wise and proper movement. It spoke in deep impressive tones the happy consummation of unhappy needs. "Behold our promise," it said to assembled San Francisco, "the outgrowth and not the arbiter, of our performance. We have fought the good fight; we have kept the faith. Not in shame and discomfiture, but in the pride of success, we present ourselves before you this day. Not besmeared and broken, but unstained and brightly polished, hand we now the tablets of the law to our appointed ministers of the law."

The people at large underestimated the strength of the Committee. Among their opponents it was the talk that their battalion drills were the same bodies of men, over and over again; that it was the desire of the Committee to appear stronger than it really was, and to present the same forces under various guises. The fact was, hitherto the Committee cared nothing for appearances so long as it had the real strength; but now, to show how fully, how heartily the people were with them, how the movement was the people, the law, the government, and no clique or cabal, it was deemed best upon this joyful abdication to place themselves before the public in their true appearance.

Hence, preparatory to adjournment, a grand review and military parade was held on the 18th of August. An invitation was issued by the executive committee of 1856, through the grand marshal, Charles Doane, to Selim E. Woodworth, president of the Vigilance Committee of 1851, and through him to all members of that committee to witness and take part in this parade.



Counting their companies there were four regiments of infantry, two squadrons of cavalry, a battalion of artillery, a battalion of riflemen, a battalion of pistolmen, and a police battalion. Of course some, from various reasons, were not present, yet there were over six thousand men in that triumphal march.

It was a day of universal rejoicing; it was the celebration of a new declaration of independence, a day of thanksgiving for the deliverance of the city from a reign of criminality, a day of honor to the patriots who had so nobly vindicated the integrity of the people. This was the end of the reaction, the conclusion of one of the grandest moral revolutions the world has ever witnessed. Nothing occurred to mar the triumph of the day. About ten o'clock martial music was heard in various quarters of the city, where companies were formed in line. Members of the companies were in citizen's dress, some attention, however, being paid to uniformity—black pantaloons, black frock-coats buttoned to the neck, white gloves, and glazed or cloth caps prevailing. On the left lapel of the coat was worn a white satin badge denoting the company. Most of the officers were mounted. Bouquets adorned the muskets. The streets were crowded with spectators, flags floated from hundreds of houses, and gorgeous decorations with appropriate mottoes were stretched across the streets at several points.

Third street was the locality appointed for review, and thither, about twelve o'clock, were seen infantry, cavalry, and artillery congregating and forming into line. The troops consisted of a battalion of artillery, Colonel T. D. Johns; Light Artillery Reserve, Lieutenant-colonel J. F. Curtis; squadron of cavalry, Major Frank Baker; battalion Citizens' Guard, Major George Watson; four regiments of infantry commanded respectively by Lieutenant-colonel John S. Ellis, Colonel J. B. Badger, Colonel H. S. Fitch, and Colonel F. J. Lippitt whose regiment included the French Legion under Major Villaseque. Besides

which were three rifle companies attached to regiments as flank companies or skirmishers; also a company of pistolmen under Captain E. B. Gibbs, a battalion of police under Captain R. B. Wallace, and enrolled members in carriages, on horseback, and on foot. It was a grand sight, these "traitors under arms," as the *Herald* stigmatizes them. Third street was then open only as far as Brannan street. The companies in line occupied the whole of Third street, and a portion of Brannan, the right resting on Market street. The troops were under command of Brigadier-general James N. Olney, who appeared mounted on his white horse, which had been conspicuous in every post of danger throughout the entire campaign. Orders were then issued by the general commanding to open ranks and prepare for review. President Coleman and Grand Marshal Doane, accompanied by the executive committee and board of delegates, all mounted and uncovered, then rode down the line. The review over, the troops wheeled into column. The grand marshal and staff led off, and were followed by the president and the general commanding with his staff. Then came the artillery in four companies with fifteen mounted cannon. In the rear of the artillery was a representation of Fort Gunnybags on wheels, consisting of a framework covered with canvas on which was pictured the sand-bag breastworks of Sacramento street. Five painted cannon ready for immediate action looked through as many pictured loop-holes.

Behind this fort followed the executive committee, mounted and riding three abreast. Next were two companies of dragoons; after which the medical staff, consisting of about fifty surgeons. Representatives of the first Vigilance Committee then followed with wagon and banner, after which were the four regiments of infantry, squadrons of cavalry, battalions of citizens' guards, pistolmen, and vigilance police. Thus six thousand men before thrice six thousand witnesses demonstrated on that day their devotion to

social morals and good citizenship. In this manner they marched through the principal streets of the city amidst the enthusiastic cheers of the people. All along the line of march flowers were showered upon the men by mothers and daughters whose hearts were with their own and the city's saviors.

After the parade the Executive met and adopted the following resolutions:

"That the executive committee have noticed with the utmost pleasure the unanimity of feeling and correctness of deportment displayed this day. That the grand marshal be requested to convey to the officers and their commands the high appreciation entertained by the executive committee of the proficiency of their military evolutions and the zeal they have at all times evinced in the performance of their arduous duties. Also that the chief of police be requested to express to the officers and members of the police department the high appreciation entertained by the executive committee of valuable services so zealously rendered by them."

I cannot resist the temptation to give a specimen of the bark and bray line of argument still kept up by the *Herald*, as displayed in its account of these ceremonies. "Grand funeral procession of vigilants," it begins. "The last agony is over. The committee of traitors, who have so long disgraced themselves and the city of San Francisco, have adjourned in a blaze of fireworks. Their past career is written in lines of blood, and the pen of the honest historian will hand them down to posterity with all the shame and infamy they have heaped upon republican institutions." After half a column or so of like preliminary it begins its graphic account thus: "The day broke dull and gloomy. It was the anniversary of the traitor Benedict Arnold. A cold insinuating mist hung like a pall over the city, and the light of God's countenance, the glorious sun, appeared only at intervals and then quickly retired, as if unwilling to shine upon the disgraceful scenes of the day." Of the review it says: "The descendants of Guy Fawkes, the modern witch-burners, the strangling conspirators of the anointed Committee of Vigilance, composed of all the decency, all the honesty, all the virtue of a San

Francisco population, having armed themselves with condemned muskets and an assortment of pistols and sabres, marched down in divisions to Third street, where the sorry farce of a review was gone through with under the critical supervision of Field Marshal Charles Doane. Field Marshal Charles Doane was mounted on a horse encumbered with an extraordinary amount of military trappings, wore a black frock-coat, black pantaloons, a white shirt, a glazed cap, was surrounded by an invoice of pink and white ribbon, wore spurs and leather boots, carried a sword in his hand, and conducted himself with so much modesty and propriety that none but the practised eye could ever have recognized in him one of the first military men of the age." But enough. Two or three doses such as this administered daily for three months shows to what extremity the advocate of a cause is reduced.

But the richest of all is the following from the *Herald* of the 21st of August on a proposed ball to be given that night to the executive committee. "A Grand Ball of the Stranglers!" it is headed. "Star Chamber and the Canaille Cheek by Jowl!"

"We have just received intelligence from our special mesmeric correspondent of one of the most remarkable festivals that has ever graced the page of history, to come off this evening at Musical Hall. From the lights before us it seems that in a city which formerly was an appendage of the United States, but which will now form the nucleus of an incipient higher law republic, a heterogeneous mass of humanity has been engaged for the past three months in the laudable undertaking of turning the American Constitution topsy-turvy, and disgracing the enlightened century in which we live with scenes of folly, madness, violence, and horror, such as would only have been expected to be tolerated in the Cannibal Islands or in pandemonium. After having hanged four of their fellow-beings without any of the forms of law or justice, after having been the cause of the horrible suicide of two of the miserables who were confined in their blackhole of Calcutta, after having banished a score of bad men who contrasted favorably with many of their own pious and saintly Josephs, after having incarcerated a judge of the supreme bench and held him for six long weeks in durance vile, with the mummery of a trial going on and the muttered threats of the *chonanneurs* thirsting for his blood, his daily comfort and his nightly dream, after having outraged all common decency and courtesy, violated every social right guaranteed by the compact of that constitution which was conceived in patriotism, baptized in loyal blood, and nursed

in the hot-house of the world as the most beautiful and delicate plant of liberty that has ever flourished in the sunlight of God, after having committed this long catalogue of crime and infamy, enough in all conscience to make them, for all time to come, hang their very heads in shame and humbly and penitently seek pardon and forgiveness, what a fitting finale has filled the cup of their insane outrages! Will it be believed by those who are to follow our footprints in the sands of time that the master spirits in this memorable epoch of anarchy, the privy councillors in this crusade on freedom, had the impudence to advertise their infamy and to hold a mutual admiration festival in the shape of a ball? The fact is nevertheless patent. We were shown yesterday a ticket to a ball to be given this evening to the executive committee of the vigilance saints, at Musical Hall. The executive committee, with a consideration which is truly refreshing, and for which the plebeian flunkies of the immaculate body can never be sufficiently grateful, have put the price of tickets down to five dollars per head. This is right, it is democratic. Heretofore there has been an aristocratic, an impassable gulf between the Dives of Front street and the Lazzarone of the Committee. The vigilance millennium has at length come. Now the eagle and the buzzard will lie down side by side, the lion and the lamb will feed out of the same dish. There is balm in Gilead for the puppets with a vengeance. For the moderate sum of a half-eagle they are graciously permitted to come within the sacred presence of the Lord's anointed. We are not in the confidence of the Committee and cannot, therefore, say what objects the Star Chamber have in view, but it is reasonable to suppose that they are hard up for funds and have adopted this very ingenious method of raising the wind. We were much surprised that in a body embodying so much of mathematical genius, so great a knowledge of the science of humbug, the idea of exhibiting an anatomical museum has never suggested itself to them. What an immensely profitable investment it would have been if, instead of handing the dead bodies over to the coroner to be buried at the expense of the tax-payers, they had engaged the services of some expert artist and had the carcasses exhibited in imitation of Madame Tussaud's chamber of horrors.

"To illustrate our idea: They might have had the ghost of Casey in a sitting posture engaged in stuffing one of the identical ballot-boxes that excited so morbid a curiosity in the fashionable rum-mills of our city. Cora should have been placed in a standing position on a platform, with his eyes bandaged, listening to Casey's speech, and a miniature representation of the reds with the condemned muskets at his feet. Hetherington would have appeared to advantage at the identical moment when the executioner, of black cambric memory, put the fatal cap over his head to prevent any remarks that might have initiated the dear people into the mystery of Vigilance Committee jurisprudence. Brace would have been an immense card; his figure, as he appeared under the influence of the bad brandy so liberally administered by the saints for the purpose of counteracting any moral effect that might be produced by the dying speech of a man of Hetherington's nerve, illustrated by his classical remarks at the moment of execution, would readily have commanded an extra bit, and thus added largely to the depleted puritan treasury. Sullivan should have been presented sitting on his lonely cot in his dismal

cell in a meditative position; time, midnight, and the clatter of the hammer and the grating of the carpenter's saw suggestive of an execution. A wax figure of a sentinel in front of his prison-door, who, by a species of ventriloquism, might be made to speak with profane levity of the probable end of the criminal, and a knife lying opportunely at his side, would have made up a very effective tableau. This happy idea of an anatomical museum not having suggested itself to the fertile ingenuity of the stranglers, they have adopted the less classical but more social plan of a ball.

"This evening will be a gala night in the memory of the modern puritans. There will be music, bright lights, and the fair forms of the loveliest of God's creation will float around in the misty mazes of the waltz. Let the dance go on, let joy be unconfined, but if there is a conscience in the breasts of the men who will grace the occasion this evening with their presence, dressed in glossy broadcloth and white kids, if they come within gunshot range of Shakespeare's idealization of Macbeth, there will be many an air-drawn dagger floating before their mind's eye; and perhaps the ghost of a Casey or a Hetherington may intrude upon the hilarity of the occasion, as that of Banquo did upon the peace of mind of Macbeth at the royal banquet. Instead of ornamenting the room with the vote-yourself-a-medal banners, or mutual-admiration flags, we would suggest that an artistic representation of Casey and Cora dangling in mid-air with the motto of Pop goes the weasel, should be placed at one end of the hall. A representation of a scaffold, containing wax miniatures of Hetherington and Brace, with printed copies of their last words and dying speech, would be a fitting ornament to the opposite end. In the centre of the floor, the whitewashing artist of the association, who so immortalized himself in the funeral celebration of Monday last, might very appropriately construct a miniature representation of Fort Gunnybags, with full-length figures of the valiant and heroic sentinels who were so considerately assigned the honor of guarding the precious gunnies during the reign of terror.

"We make no doubt the room will be ornamented with the cannon and guns stolen from the state authorities, and we are informed upon what we consider reliable authority that to add to the interest of the occasion the Committee can obtain the hat of the ubiquitous McGowan, which, inasmuch as that enterprising individual has given the all-seeing eye of vigilance the slip, should be enveloped in an invoice of crape. A score or so of death's-heads, a bale of American flags with the Union down, hung promiscuously around, two or three dozen sanguinary individuals dressed in black cambric gowns à la Hetherington's executioner, a few bales of rope, and an assortment of slip-nooses, some specimens of patent trap-doors, and the knife with which Sullivan committed suicide; a lock of Cora's hair, and one of the front teeth of Brace; together with printed biographical sketches of the executive committee, would add much to the general effect of the *tout ensemble.*

"The music should commence with the Rogue's March, to be followed by the Pirates' Chorus from the *Enchantress;* and the entertainment of the evening should wind up by the judge advocate singing Down among the Dead Men."

I can do no better here than to give in full the address of the executive committee to the general com-

mittee of vigilance on their retiring. How different in tone and character from the ribaldry of their opposers:

"GENTLEMEN: On the occasion of your adjournment the executive committee deem it proper to make the following remarks:

"A few months since, grief and despair weighed gloomily upon an oppressed people, unpunished crime was in the ascendant. For years our citizens had endured the great evils existing in their midst, and had combated them by all the ordinary remedies prescribed for a republican people. The redress looked for in elections and jury-trials was used without success. These remedies were not neglected, but by the combination of fraud and violence they were rendered of no effect. The ballot-box was dishonored, the laws were perverted, justice was prostituted, government was corrupted. The exercise of free speech and the guardianship of a free press were attended with peril; life was unsafe upon the public highway.

"The state of public affairs required that ordinary remedies and legitimate measures should for a brief period be laid aside. The necessity was anomalous, the exigency great. Measures which could not be justified in well ordered and well governed communities, became defensible and just. It was requisite that a prompt and overwhelming assault should be made by the people upon organized and dominant crime. The occasion came; the public exigencies demanded of you, as representatives of the great majority of the people, that you should assume, to a limited extent, the administration of justice. Similar exigencies have occasionally arisen among a free people; but none furnishing a parallel to this, or requiring so imperatively a vigorous and united action of the public. A stern and awful necessity demanded the employment of extra-legal and extra-judicial measures for public relief, supported and protected by an armed militia drawn from the bosom of the people. It was the last of a long-suffering and insulted people—free in name, but not in fact. The fountain of endurance long filled to the brim, at last overflowed. None regretted the necessity more than yourselves. No people on the face of the globe were more strongly opposed, on constitutional grounds, to the reassumption of any portion of those rights and duties which, residing in the people, are delegated by them to their servants. In the rectitude and loyalty of your republican principles you are conscious of a devoted love for and adherence to the true spirit of government and law. In the assumption of power, you did but assert and use the rights constitutionally inherent in the people as declared by their majority. You have performed certain specific acts which were requisite to vindicate justice and the rights of an outraged people, and to strike terror into the ranks of crime. You have exposed the machinery by which your liberties have been subverted, and which has rendered the election franchise a mockery, and the administration of justice a farce. You have originated and brought to active maturity the great revolution which will result in social and political reform. The great work which you have commenced has attained to that degree of progress which will require at your hands in the future only the honest and watchful efforts of citizens in the ordinary prescribed methods of action to consummate the desired and triumphant end.

"Fellow-members, you have given your time, your money, your labor, and your earnest thoughts to the work. You have made many and great sacrifices. You have thrown yourselves into the breach in this contest, and whatever of jeopardy or loss, whatever of opprobium or enmity could possibly ensue, you have freely hazarded for the public good. All this you have done without the possibility of private gain, without a solitary object of personal advantage, looking only for your proportion of the public benefit. You belong, generally, to those classes of citizens who have rarely filled, and have never coveted office. You are the industrial classes, men of occupation and responsibility. Among you are the larger majority of those citizens of San Francisco who are anchored here by family ties, by homes and households. A majority of your opponents, consisting of the most bitter and hostile, have no trade but politics or worse, and have but little at stake in property or families. They affect not to understand the sincerity and self-sacrificing principle which has led you to labor and endure so much to effect public reform. To most of you office is no object and would be a burden. Your interests would suffer by its acceptance. You have endured much of bitter enmity and unblushing misrepresentation. While many of our most respected citizens have differed from you on abstract principles, it is undeniable that a combination of the worst and most dangerous elements in society has been raised against you. False issues have been attempted by which to stigmatize you as partisans and fanatics, as traitors. You have been falsely accused of harboring political enmities, religious prejudices, sectional dislikes, hostility to foreigners, and finally, of indulging political aims. The seventh article of your constitution, adopted at the commencement of your existence as a body, effectually forbade all issues of sections, nativity, politics, or creed. A motto on your seal disclaims such issues, and to this hour the integrity of that constitution and that motto has been preserved inviolate, even against imputation. You are of every religious creed, of every political bias, of every enlightened nation, and of every state of our beloved Union. It would be utterly impracticable to form a reliable conjecture of the predominant political or religious sentiment among you. We therefore earnestly counsel you, as vigilance men, to avoid all indentification of the Committee's name and interests with any political party or policy. Do your duty faithfully, each man in the party of his choice. Let every man throw his vote. Let every man cherish and protect the palladium of the people's rights and liberties. Protect the purity of the ballot-box—let it never again be polluted. See to it that the elections are peaceable, that the lives of freemen are not perilled by ruffians at the polls. This is your work. Let the question be regarding every candidate, Is he capable? Is he honest?

"Since you commenced your labors there has been a very great improvement in the administration of law and justice by the authorities. Crime has been more generally and more severely punished. The recent annulment of the fraudulent elections, and the indictment of the offenders in the young and almost helpless county of San Mateo, so recently separated from ours, is a triumphant and promising result of the great movement by the people. Let the example be copied. Exclusive of the hostile demonstrations against your own body, good order and a sense of security have prevailed to a greater ex-

tent than ever before in our midst. Men have not feared to express their honest sentiments in every peaceable manner; the press has been untrammelled; riot has been prevented, or has been easily suppressed. Some advantage has been taken of your moderation, but by your discretion and forbearance the great excitement of the past three months has subsided, and its great events have been accomplished without the consequent loss of a life by collision.

"The aggregation and discipline of a large military force was a measure of prudence and necessity. The peace and safety of the community required it. Without its overwhelming power, a bloody issue would have been forced upon you. By its strength and perfection, the exertions of your opponents to organize and bring into the field a hireling force, of the worst outcasts of society, to destroy you, have been rendered impotent and abortive, and thus the city has been spared the horrors of civil war. You took up arms for protection and not for aggression. Had no armed opposition been arrayed against you, your work of justice would have been accomplished without bearing arms. Determined yourselves to avoid the shedding of blood, you made no attack upon your foes until they took the field against you. Your military power and discipline are adequate to any achievement you might desire. Had you aimed at the subversion of government, at a change in the incumbents of office, at any political revolution; had you been actuated by sinister designs, by malignant hate or revenge, by fanatical zeal in any object, declared or otherwise, the power was yours. Heaven acquits you of any such motives or passions. You could have proceeded to extreme measures, even in the very avowed objects of your constitution, but you have been moderate and just even in these. You might have done much more than you have, in the punishment of the guilty, but it is not in the execution of a few assassins and the banishment of a few score of noted criminals, and the voluntary expatriation of many others, that your work is done or to be done. You have visited your power only upon those respecting whom the evidence was clear and full. You have preferred to err on the side of clemency. Other rogues remain unpunished, and some high in position. They can hope for no immunity in the adjournment of the Committee. The eye of vigilance is upon them. The sword of justice is yet suspended over them; other modes of punishment are in reserve for them. The vigilance of the whole community in respect to crime and the abuse of office has been awakened, its moral sense and intellect have been quickened. Iniquity, hitherto disguised with fascinating mask, stands exposed in hideous deformity. You have demolished the fortress of crime and corruption, and have scattered its garrison to the four winds.

"The archives of the Committee contain a large amount of testimony which its session accumulated, and which can be hereafter used in the punishment and prevention of crime and political abuses, by the employment of those ordinary remedies which hitherto have proved inoperative.

"You are content to lay aside your arms. It is your pride and delight that those arms are unstained by a single drop of citizen's blood. You have disarmed your opponents, who sought to embroil you in a fratricidal conflict. You retire in the plenitude of your power. This event you sought and expected many weeks since, but the hostile attitude of your foes and the new

issues forced upon you prevented the realization of your wishes, prolonged your active service, and were the means of perfecting your military discipline.

"You will retain your organization, but without active service as a body, and without the design and desire of again assembling. Yet, as a provision against possible contingencies, your executive committee will endeavor themselves to exercise vigilance in the investigation and reformation of abuses, and in aiding and urging on the constituted authorities in the discharge of their duties, reserving the discretion and privilege of reassembling the board of delegates, or the general body, should serious occasion arise. Such occasion in the judgment of the executive committee might be found: first, upon the return of any person you have banished, or upon the necessity of enforcing any sentence already passed; secondly, upon the necessity of protecting any member of the Committee from violence or malicious prosecution, arising out of any act performed by authority of the Committee; thirdly, in event of any assault upon the life or liberty of any citizen, should it be apparent that the laws, or the officers of the laws, are inefficient for the protection of the citizen or the punishment of the offender; fourthly, in case of any violation of the purity of the ballot-box or the sanctity of the elective franchise.

"A small police force will be retained for the present, and will be reënforced, if advisable, from the ranks of the Committee.

"You will now adjourn. You will mingle once more with citizens without the distinctive character of vigilants. Let us, then, fraternize with those good citizens who have honestly differed with us. Let us unite vigorously and generously in those measures of public good, upon which all the patriotic and honest citizens agree. It is the duty of all good citizens to quiet popular excitement; at the same time, a manly vindication of your past course is incumbent upon you when occasion arises. You were not assembled to subvert laws but to maintain the people's rights. Justice demanded of her devoted adherents that vindication which the usurpers of her throne had denied her. You have dispersed the pestilent vapors which eclipsed her, and once more the benignant visage smiles upon a people long despairing and inert, and has been aroused to generous and healthy action. The people have found that they are not powerless under the rule of crime. Mighty has been the demonstration of the mind and voice of an awakened public in the great moral conflict.

"Let this moral power, vast and terrible when fully aroused, complete the work which your hands have begun. Aid it with your hearts and hands! Aid it by your example, your voice, your votes! Aid it in the jury-box, at the polls, by your daily life and conversation, by the public press, by the pen, which is mightier than the sword. Let not the good work flag. Remember that eternal vigilance is the price of liberty. Be vigilant in bringing criminals to justice. See to it that the courts and the officers of the law do their duty. Aid them in the execution of that duty; and in the unswerving integrity of manly and honest hearts, looking to that providence who has guided you in doubt and danger, who has brought your labors to a successful result, may you ever adhere to the true principles of vigilance, sustaining the laws when rightly administered, the government when faithful to the people, and the supremacy of the people as the source of both government and law."

Comment on the foregoing is needless. Like all the documents emanating from that body a candid reader cannot fail to discern its moderate and dignified spirit, and its sound and logical reasoning. Truth alone is aimed at. The necessity for such an organization is clearly proven, and the results accomplished moderately given. Thus speak the masters, as they have ever acted, *sans peur et sans reproche.* "It is a sublime picture of self-denial," exclaims one, "the history of the Vigilance Committee; one which has few parallels in the pages of history." *De facto* the state's rulers, they passed untainted through the intoxicating ordeal of the exercise in secret of almost unlimited power, in the use or misuse of which they were responsible only to their God and to each other.

The following notice appeared in the public journals of September 20, 1856:

"COMMITTEE OF VIGILANCE.

"All members in good standing can receive their certificates of membership by calling on the secretary of the Qualification Committee at 41 Sacramento street, between the hours of 9 A. M. and 4 P. M. daily.

"By order, 33, *Secretary.*"

In May 1857, the executive committee removed their chambers to a room gratuitously furnished by T. J. L. Smiley at the corner of Sacramento and Sansome streets.

On the 29th of May, 1857, Mr Bluxome sent in his resignation as secretary, in which capacity he had served so long and faithfully, and James Ludlow was elected in his stead. It was decided that the same signature, namely, '33, Secretary,' should be continued in use by the new secretary, and that all edicts and communications should be subscribed therewith. Thanks were tendered Mr Bluxome under seal of the Committee.

The record of the Committee of 1856 opens the 15th of May, 1856, and closes with the 3d of November, 1859. The last meetings were held in the office

of Mr Dempster, from ten to fifteen members usually being present.

Treasurer's Report from May 15th to August 11th, 1856.

RECEIPTS.

Collections in initiation-room,	$ 2,189 45
Donations,	368 87
Collections of district committees,	8,960 25
Contribution-box in ante-room,	93 90
Roll-book,	2,240 45
Collection of citizens' committee,	10,574 79
Loans of members of the Executive,	1,700 00
Collections of delegates,	2,902 82
	$29,030 53

DISBURSEMENTS.

Furniture, blankets, bedding, etc.,	$ 2,242 27
Police expenditures,	2,044 12
Rent,	1,860 00
Horse, hack, and boat hire,	1,324 64
Arms and ammunition,	2,657 13
Carpenters, painters, lumber, etc.,	2,312 88
Painting and advertising,	230 50
Stationery, etc.,	172 50
Provisions, oil, candles,	4,615 28
Salaries,	6,247 54
Telegraphing,	51 30
Passage of prisoners,	100 00
Schooner *Exact*,	3,174 02
Sand-bag fortification,	685 50
Incidental expenses,	210 25
Expenses of wounded members,	536 07
Cash on hand,	566 53
	$29,030 53

Treasurer's Report October 9th, 1856.

RECEIPTS.

Collections in initiation-room,		$ 2,189 45
Donations,		1,506 75
Collections of district committees,		14,638 00
Contribution-box in ante-room,		93 90
Certificate fund,	$3,568 25	
Less paid in full for 1st edition	1,772 50	1,795 75
Roll-book,		2,544 45
Publication of Terry trial,		1,100 00
Collections of committee of citizens,		1,168 00

Patent double-action ballot-box,		$ 500 00
Loans from Executive,	$1,700 00	
Less refunded,	1,600 00	100 00
Company collections,		5,932 82
Exhibition of rooms,		651 46

DISBURSEMENTS.

Furniture, blankets, bedding, etc.,		$2,350 95
Police expenditures,		2,079 12
Rent,		3,975 00
Horse, hack, and boat hire,		1,631 64
Arms and ammunition,	$9,807 87	
Less received from sale of muskets,	1,797 50	8,010 37
Carpenters, painters, lumber, etc.,		2,381 00
Printing and advertising,		294 00
Stationery,		594 95
Provisions, oils, candles, meals, etc.,		5,748 31
Telegraphing,		73 15
Passage of exiles,		1,625 00
Schooner *Exact*,	3,453 81	
Less received for her in full,	2,400 00	1,053 81
Sand-bag fortifications,		761 25
Miscellaneous expenses,		524 12
Expenses of wounded members,		1,327 62
Salaries (all departments included),		9,439 60
Cash on hand,		250 32

On the adjournment of the Vigilance Committee the county jail contained no prisoners awaiting trial, and the doleful predictions of the law and order journals that the occupation of officers of justice would be gone seemed for the moment to be realized. But be not downcast, O district attorneys, sheriffs, and lawyers, for with the non-interference of the people who were to wreck society on their impious form-breakers, criminals will take heart again! Never fear. And so it was.

Immediately after the adjournment of the San Francisco Vigilance Committee, highwaymen became very troublesome throughout the entire state. The governor loudly protested his inability to put down these guerilla bands. The legislature must vote him supplies, he said, else he could do nothing. Then there was talk of organizing vigilance committees

everywhere. Indeed, this seemed at the time to be the only way of exterminating this sort of vermin. "What kind of a governor is this we have?" cries one. When the Vigilance Committee were sending abandoned characters from the country he could easily find the power to attempt to make war upon them. Now when the aid of the state is desired for the protection of the community, and not as in the other case for its injury, he suddenly finds that he has no power. Shame on California to permit herself to be so misruled! May the time be hastened when, in the words of a contemporary, his term of office over, he may "reel from the executive chair back to a congenial obscurity, so far beneath the reach of animadversion that all his own follies, vices, and infamies, linked into a chain, could not plumb him. If, by a miraculous exercise of divine power, the law of gravitation which unfortunately holds him to the earth, should be, in respect to him, annulled, and he should fall away into the immensity of space as rapidly as descends an aerolite for the remainder of his years, he would not at the end of his career be farther from the centre of the earth than he will be beneath the contempt of an honest man the moment he steps out of the governor's chair. We, therefore, are impatient for the few short weeks of his term to pass over."

An auction sale of the Committee's effects was held at the Sacramento-street rooms the 7th of October. It was well attended, and the bidding was spirited. T. J. L. Smiley, of the executive committee, stepped from the multiform duties of inquisitor, and played the part of auctioneer. It was his vocation, no less the one than the other. A lot of lumber, part composing the scaffolding of Brace and Hetherington, and part the cells of Casey and Cora, was sold. Then followed mattresses, furniture, utensils, and arms.

About one thousand feet of lumber, of which the prisoners' cells were made, sold for seventy dollars;

bulletin-boards ten cents each; cavalry swords twelve and a half cents each; street barricades nine dollars each; one thirty-two pounder twenty dollars; beside which were mattresses, blankets, chairs, and table furniture. Total receipts five or six hundred dollars. Creditors of the Committee were notified to present their bills properly certified before the first of September, and receive payment. The bell was sold for six hundred dollars to the citizens of Petaluma, who hung it in the belfry of the baptist church with the understanding that it should be used not only as a church bell but as a city bell. A man was engaged to ring it three times every day, morning, noon, and night; and there it remained until the 29th of April, 1864, when a Mr Doyle, who had contributed something over a hundred dollars towards its purchase, becoming aggrieved at some political action of the church, took the bell, and stored it in a warehouse. But after the service it had seen it was not the bell to remain in ignoble retirement, and had not the people of Petaluma risen *en masse* and elevated it to its old position it would have rung out its wrongs of its own accord.

The famous brass cannon originally belonging to the California Guard, which threatened the jail while Casey and Cora were being led out, was delivered up to the state with the other state arms. The company, naturally desirous of retaining the faithful old trophy, petitioned the governor for it, but the request was flatly refused. Weller was then governor. The more to place it beyond their reach it was sent to Los Angeles at the time an appropriation of five thousand dollars was made to aid the people of that vicinity in hunting banditti. Not a robber did it kill, however, but true to its instincts, when Pancho Daniels was taken from prison and executed by the people, there stood the old gun, bright and bristling in absolute defiance of governors, statutes, and constitutions, menacing that very authority which it had been sent to sustain.

Silver medals about the size of a trade dollar were struck off and furnished to any of the members desiring them. On one side round an all-seeing eye were the words "Committee of Vigilance," outside of which, encircling the whole, was the line, "Organized 9th June, 1851. Reorganized 14th May, 1856." Beneath the eye were the significant figures "33." On the other side stood Justice with sword and scales; beneath, the words "San Francisco, California," and

round the edge, "Be just and fear not. Fiat justitia ruat cœlum."

The birth of Washington we yearly celebrate. Every fourth of July we remember our declared independence of any earthly power; and there are those who hold festive the 9th day of every September, when, in the year 1850, California became one of the American confederacy of states. All this is well. And yet there is that involved in the proceedings of the 18th of August, now all unnoticed and well-nigh forgotten, of as vast importance to the race as some of these. But the spirit of that day lives, and lives immortal. Let necessity invoke it and straightway it becomes incarnate. It is the spirit of vigilance, that essence of almighty power by which the progressional part of man regulates the unprogressional part.

On this, the 18th of August, the Vigilance Committee closed their barracks and retained only a moral

and invisible organization. This retiring was absolutely voluntary. It arose neither from outward fear nor from inward dissension; it was hastened by no self-destroying cause or extraneous pressure. There was then no organized force opposing the Committee, no danger from which immediate dissolution was the sole escape. On the contrary, the personal and probable pecuniary perils of the leaders would be augmented by the dismissal of their forces; and yet these leaders had spontaneously decreed that this should be. The objects which had been the original and only aim of the organization had been happily attained. Both life and property in San Francisco were now far safer than they had been for years. Animosities, though daily found by the morbidly distempered, were slowly subsiding; and already it could be safely assured that the softening influence of time, and that generous forbearance which victors in a noble cause can always afford to manifest, would eventually dissipate them wholly, and that strong civil bonds should so unite the members of this metropolis as to make it the envied of all cities.

The leaders, moreover, believed that the day when freedom might be secured by force alone had passed, and that the peace secured by bayonets might now for its continuance be safely left to ballots. For their own part they resolved, and to their subordinates they recommended, the total abstinence principle in politics. They would neither seek nor accept official station, lest some shadow of pretence might be afforded for the reproach of sinister designs in their purely patriotic movement. Enemies there were standing ready to brand their purity of purpose and rigid self-denial as office-seeking trickery, such as they would only too gladly practise themselves if they had the necessary character, capital, and ability.

"It is very seldom," remarks the London *Times*, "that self-constituted authorities retire with grace and dignity, but it is due to the Vigilance Committee to say that they have done so."

CHAPTER XXXII.

EASTERN AND EUROPEAN OPINION.

> We will proceed no further in this business.
> He hath honour'd me of late; and I have bought
> Golden opinions from all sorts of people,
> Which would be worn now in their newest gloss,
> Not cast aside so soon.
>
> *Macbeth.*

> A plague of opinion! a man may wear it on both sides, like a leathern jerkin.
>
> *Troilus and Cressida.*

When, in the autumn of 1851, tidings of pistolings, thefts, butcheries, murders, and amateur strangulations reached the fathers and mothers of those so indulging, the kind-hearted of Portland, Maine, circulated a petition praying the general government to send a national vessel to California to carry away all who desired to escape, but who lacked the means.

There were others besides the old women of Maine, some even among those who undertook to enlighten mankind through the columns of daily journals, who comprehended the existing state of things but little better. By the time of the disbandment, in 1856, many had become enlightened. All who desired to know the facts could, for the most part, command them. There were some minds, however, and are yet some, unable to see the right in the action of the people of California. But happily for the common-sense of mankind they are not many.

Often at a distance the action of the people was supposed to spring from a seditious spirit, a riotous disposition, and a general tendency to capricious skit-

tishness, when the very reverse was the case. Thus the movement at one time tended to check immigration when it should have encouraged it. At the East and in Europe the Committee was thought of and talked of very much as we would think and speak of the Cannibal Island king and his cabinet—a bloodthirsty set watching at the portal ready to swallow all incomers; when in reality they were mild-mannered humane men, who, though they would not hesitate to strangle strangers on occasion, would not, without provocation, harm a fly. In due time the Committee became known as they were, simply a voluntary police and self-constituted court of justice combined, watching with fatherly care over the city while it slept. Surely there was nothing frightful in this; yet to this day some look back upon that uprising as the manifestation of a ravenous appetite for blood and social disorder.

All the evils incident to famine, war, and pestilence were charged upon the Vigilance Committee as the result of their reign of terror. "In the first place," they cried, "California is rapidly being depopulated. Steamer after steamer carries away its living freight, and the journals which have supported the Vigilance Committee since its commencement, now in extreme wonderment cast about for the cause of this unexpected movement eastward. Again, it is evident to everybody who takes the trouble to examine critically the shipments of treasure by every steamer, that foreign capital is being withdrawn in large quantities from this country. This fact is admitted by the Vigilance Committee organs, and in this case also with a charming *naïveté* they inquire the cause."

On the whole the San Francisco executive committee of vigilance was perhaps the most remarkable body of men known to the annals of mankind. Essentially autocratical in the derivation of their authority, their duties were prescribed by no statutes and their acts subject to the criticism of no cabal. They were

those who led and made the people follow; not as slaves or serfs, but as thinking freemen who were proud to repose implicit trust in these their honored fellow-citizens.

Excesses are usually confined to a small part of the community; outrages to still fewer. The average citizen, even when excited, pauses before a deed abhorrent to his reason. The mass of the people in concerted action are generally right either wholly or in part. But in every reformatory movement there are a few who with no other guide to their passions than the internal blaze of excitement, become insane, and act like brutes, or men bereft of reason. Such people may be unadvised of the counsels and purposes of the mass, may easily misinterpret the popular temper or will, or they may imagine themselves ministers of upright feeling and pure principles, when in truth they are acting under the infatuation of personal antipathy, prejudice, or resentment. Happily failure is the fate of excess.

Any social movement resting on other foundation than common good quickly falls to the ground. Nothing sooner extinguishes the fire even of pure patriotism or pure religion than excess on the part of votaries. The wild and thoughtless of any popular movement are sooner or later brought to their level by the majority, else the movement dies. Hence we may be sure that long continued action, in any one direction, of a large or powerful part of the body social is founded upon right and reason.

Although regarded by eastern and European social conservatives as revolutionary and anarchical, the closer observers of the social and political development of California saw the great popular uprising in a clearer light. The New York *Herald* could not read the account of the taking of Casey and Cora from the scoundrels' sanctuary, the county jail, "without a thrill of admiration for the nerve and coolness of the armed citizens."

Says the New York *Courier and Enquirer:*

"The likeness which may exist between two things radically different, is strikingly illustrated by the events in California, of which we received full and apparently correct accounts on Saturday. In almost any other city in the civilized world, or for that matter in the half-civilized world, a successful combination of the citizens for the rescue of a criminal from the custody of the officers of the law would not only be anarchy, but anarchy in its very worst form; but a dispassionate consideration of the reports which have reached us, making all reasonable allowance for the color which they have received from the excited state of those by whom and for whom they were written, compels the conclusion that the San Franciscans did no more than duty and dire necessity demanded. Not only so; our admiration is commanded no more by the promptness and decision of their action than by the dignity and decorum which seems to have accomplished it."

The editor of the Washington *Star* writes:

"The action of the people of San Francisco in the case, evinces that though persons without character and of desperate purposes have in too many instances managed by demagogism, perjury, fraud, and conspiracy, to obtain position as public men, they stood ready to abate such nuisances when they became absolutely unbearable, by a resort to the first law of nature, to the right of self-protection. The country contains no more uncompromising opponent of mob law than ourself; for we are among those who, were we forced to choose between the two, would prefer to live under the despotism of a single ruler, than to exist at the mercy of a mob; the difference being, practically, that between the condition of personal safety and private rights in France, at this time, the government of Louis Napoleon being that of the will alone, and their condition, after the revolution of 1793, when it was but necessary for the most worthless, brutal, and degraded person to point an unfounded accusation against the purest and must useful citizen, to insure the summary hanging of the latter on the nearest lamp-post, by infuriated *sans culottes.* Nevertheless, though shameful abuses of our system of government, for the consummation of which the unsettled condition of new American communities affords too many opportunities, and experience teaches—more especially where so many thousands of worthless persons have been attracted by the temptations of the gold-washings and mines—so many of those chosen to be punishers of crime and conservators of the public peace prove confederates of and sympathizers with criminals, as that the law in such cases is powerless, and justice but a mockery—the jury trial being little more than an institution to aid the escape of the worst enemies of society."

"The people of San Francisco acted well," declares the New Orleans *Delta.* "In New Orleans the murderer would remain unpunished; a sham examination before Recorder Bright would wipe away even the

faintest recollection of it and all the concomitant circumstances. But in San Francisco it is different. The people are stronger than the bullies and the gamblers, and accordingly the respectable citizens, the merchants and property-holders, turned out and demanded the New Yorker who murdered King from the hands of the sheriff, and have probably hanged him before now. They did right. When the formal judiciary and executive are not capable of decisive action, the populace does the work and does it well."

The Boston *Journal* thus discusses the question:

"We cannot justly call the Committee of Vigilance a mob, for it has the countenance and support, direct or indirect, of all the respectable portion of the community. The press, the pulpit, and business men generally sustain the summary proceedings of those who, influenced as they honestly believe by stern necessity, have taken the administration of the law into their own hands. To denounce them as law-breakers and lawless, would be to denounce the law-making power! Living as we do in well regulated communities, where justice is almost uniformly administered, where crying evils have their appropriate remedies, and where the law is almost uniformly administered by competent and faithful officers, we cannot realize the state of things which exists in California, We cannot fully comprehend the terrible necessity for wresting the administration of the law from its regularly constituted officers, and for dealing out justice to an offender in a summary manner. We know, however, that self-preservation is the first law of nature, and that it is a law which is as applicable to communities as to individuals. Society has a right to protect itself against the evil designs of the vicious and the depraved, and it does this in well-regulated communities by stringent criminal laws, and by the choice of competent officials to administer those laws, and to mete out impartial justice to offenders. In California, if the laws are stringent, the officials, and particularly the juries, are corrupt and venal, and it is the consequent uncertainty of the administration of justice which has impelled the people to take the matter out of the hands of the courts, and in their sovereign capacity to mete out justice to notorious offenders."

"When assassins of influence," asks the New York *Sunday Times*, "are enabled to twist the legal meshes so as to suit their own operations, when they can openly put those to death, with the bowie-knife or the bullet, whose honesty they fear or whose presence is embarrassing, what can a community do but fall back on its natural rights, and personally maintain that standard of peremptory justice which the exigency

demands and the authorities are too corrupt to enforce?"

On the other side, I find in the New York *Commercial Advertiser* the following:

"It is impossible to read the California papers brought by the *George Law*, without deep concern and regret at the condition, moral and social, of the city of San Francisco. The picture is saddening in the extreme. We had hoped that the days of lynch law, and illegal administration of the law's penalties, had forever passed away in California; and that in San Francisco at least, where the machinery of legislative, administrative, and executive government is complete, secret vigilance committees, and other self-appointed and irresponsible tribunals, would never again be known. In common with all lovers of law and order, we have suffered bitter disappointment. At this distance from the scene of action, it is impossible to divine all the causes that have led to the sudden overthrow of government in the state of California—for such is practically the condition of things there—and the substitution of a secret tribunal and of popular lawless vengeance for the proceedings of criminal courts. Whatever may have been the causes, however, the effects were likely to be most lamentable and disastrous."

Obviously the *Advertiser's* editor was a careful reader of Mr Nugent's writings, for he goes on to say:

"Other evidences of excited passion and tyrannical disposition on the part of the Vigilance Committee organization accompany its proceedings. A determined effort has been made to crush the San Francisco *Herald* because it had the manliness to assert that the law and the officers of the law should alone deal with offenders against the laws. This clearly shows the temper of the whole proceeding. The thing is radically wrong. Once let it be established that private citizens, whatever their number and respectability, may take the administration of justice into their own hands when they think it is too tardily administered by the popularly elected authorities, and a despotism ensues more oppressive and cruel than that of any individual sovereignty."

And thus the Boston *Traveller:*

"It is impossible to justify the resort to popular power which has followed this outrage in California, except upon grounds of absolute revolution, for which no apparent necessity exists. It seems, on the contrary, that the constituted authorities were disposed to do their duty in the premises, that they were not even dilatory in the discharge of the proper functions. The offender was arrested and confined in jail; but the excited community was too impatient for justice or revenge to await the course of law. If the authorities had failed to do their duty, there would have been more excuse for this disorderly and dangerous step. It was certainly due to law and order to await the operation of the constituted forms of justice. Revolutionary measures

can only be justified upon the ground that society is suffering under evils for which no legal constitutional remedy can be found. The *Herald* seems to have maintained its position manfully, and already, as we perceive by the latest number received, a reaction in its favor has commenced."

Had this man of Boston been in San Francisco at the time, he would have been seen some dark night, standing on the outer ramparts of Fort Gunnybags, with a musket in one hand and drawn sword in the other, and three New England butcher-knives, and six Springfield revolvers under his belt, patiently watching for a Johnson or a Howard to appear that he might annihilate him. So often are opinions the result of accident.

The New York *Tribune* in a temperate commentary on the subject says: "We fervently trust that this state of things may not be protracted. Should it be, personal interests and enmities will creep in, and the little finger of the Vigilance Committee will be found thicker than the loins of the legal and regular, though corrupted, administration of justice."

"Much alarm is felt by individuals in the eastern states," says the Pennsylvania *Enquirer*, "who have friends and relatives in San Francisco. They fear that other exciting scenes have taken place, and that further blood has been shed. The real condition of affairs in that city is not understood, and it is difficult to conceive a state of social disorder so deplorable as to authorize the high-handed conduct of the Committee of Vigilance. Private letters generally, it is but right to add, sustain the Committee."

The New York *National Democrat* observes:

"If the same energy which prompted the formation of the Committee and organized the armed force that assaulted the jail had been directed to strengthen the regular course of justice as public opinion can do it, there would have been no need for the outbreak. The indifference to crime which is so natural in a community situated like California, induces laxity and encourages disorder, until they reach such a height that vigilance committees and lynch law step in and make a general jail delivery, warn off rogues, and strike that terror into evil-doers which courts and juries cannot inspire. It

is only in rare instances that mobs can effect any good. The precedent is bad, the law of passion cannot be trusted, and the slow process of reform in the administration of justice is more safe to rely on than the action of any revolutionary committee, no matter how great may be the apparent necessity. Such bursts of popular sympathy do not inspire that sense of personal safety which good government ought to secure. Better to endure the evil of the escape of criminals than to inaugurate a reign of terror, which to-day may punish one guilty head, and to-morrow wreak its mistaken vengeance on many innocent lives."

And thus, loudest and strongest of all, the Philadelphia *North American:*

"The state of California has never been remarkable for its law-abiding character, but we had supposed that the severe ordeal through which it passed during the former reign of lynch courts and vigilance committees had purified the atmosphere sufficiently to leave no further necessity for a resort to so desperate remedies. Formerly the offenders, against whom the summary code of Judge Lynch was levelled, were robbers, incendiaries, and convicts from Australia, Tasmania, etc., persons who committed crimes from no other motive than the mere desire for plunder. The community seems to have, in a great measure, got rid of these. But lo! in the midst of an era of peace, prosperity, and general security, the law is suddenly ejected from the judgment-seat, the prison surrounded by a mob, self-constituted committees nullify the authority of courts, juries, judges, police, sheriffs, mayors, and other functionaries, and seize the reins. This may be all right, but we must confess that to us it looks as though it were all wrong. No matter what may be the plea urged in justification, it is rank rebellion and revolution, as much so as anything that ever happened in Mexico or Central America. A single murder, however unprovoked, is no excuse for the subversion of all law, and we trust this California outbreak may end in the signal punishment of its authors. Assuredly if the governor of the state be a man of the proper nerve, he will at once adopt the most energetic measures to restore order and suppress insurrection. This is the second time that the administration of justice in San Francisco has been made the excuse for a mere mob to overturn the lawful authorities and elect irresponsible agents to wreak their vengeance on a few offenders. Had the first outrage of the kind been fully met and resisted by the state authorities, as it should have been, the second one would not have occurred. And if the present disturbance be calmly tolerated, the same thing may be at any time repeated, whenever popular passion or prejudice happens to be wrought up to the proper pitch. The rule of the Vigilance Committee in San Francisco is the reign of anarchy and terrorism. Its members are far more dangerous to the community than the gamblers whom they persecute. They are the worst possible enemies to the peace and prosperity of the state, since they nullify at their pleasure the laws which are the shield of the citizen against oppression. Let us hope that the press in the Atlantic states will do its duty in the present instance, and meet this outrage with the denunciation which it merits."

The New York *Tribune* indulges in the following:

"There is a subtile and delicate flavor about California crime not to be matched by the felonies of any other known locality. They taste of the soil. There is a region in Sardinia the bitterness of whose earth is perceptible in its honey; and delicate tasters have noticed in wines of eastern France a flavor of flint; in those of Burgundy a smell like that of the sprouts of the wild eglantine, and a taste of faded rose leaves. And the soil seems to transmit its quality to human actions, as well as its flavors to honey and wine, or grapes, or laurel blossoms. Here is a record of a little criminal drama in five acts enacted on the borders of the Pacific, in which one Whitney, having a sum of money in bank, and owing an equal sum, consulted one Dixon as to the best means of avoiding payment. Dixon promptly counselled that Whitney should withdraw the money and lodge it secretly in his hands, so that it could not be attached by legal process. This was done; but when Whitney desired to withdraw the sum from his ingenious and guileless friend, the latter denied all knowledge of the transaction. Thereupon the despoiled Whitney craves the interposition of the law, and makes a clean breast of it. The legal myrmidons overhaul Dixon, and it is at last discovered that he has made over the cash to an evil woman named Richardson, with the understanding they are both to fly, rejoining each other in a distant city where they can diffuse the booty in peace. Searching and urgent investigation of this person disclosed the fact that she had just perfected her arrangements to throw overboard her fellow-felon and run away with another man; a man of the hoodlum order, with a taking eye and a correct taste in hair-oil. Search for this young man brought to light the amusing fact that he had spent quite a good portion of the money in purchasing a fugitive outfit for another young woman, who, as soon as she had got the articles, did literally and actually fly with another young man about whom nothing is known, except that he seems to be the only one in this strange succession of criminals who has reaped any of the fruit of the original crime. Considering the extreme complication and embarrassment of everybody concerned, and the small likelihood that he will ever get any of his money back, it is possible that Whitney now almost wishes that instead of mobilizing his capital in that secret fashion he had quietly paid his debts with it."

The following on the cant of law-abiding from Dickens' *Household Words* is quite a remarkable paper considering its source:

"We avow for our own part that whensoever at public meeting, dinner, testimonial presentation, charity-election, or other spoutation ceremony, we find, which we always do, an orator approaching an Englishman's respect for the law, our heart dries up within us, and terror paralyzes our frame. As the dreadful old clap-trap begins to jingle, we become the prey of a deep-seated melancholy and a miserable despair. We know the thing to have passed into a fulsome form, out of which the life has gone, and into which putrefaction

has come. On common lips we perceive it to be a thing of no meaning, and on lips of authority we perceive it to have gradually passed into a thing of most pernicious meaning. For what does it mean? What is it? What has it come to?

"Here it is: 'My good man, John Bull, hold up your hand and hear me! You are by no means to stir a finger to help yourself, or to help another man. Law has undertaken to take care of you, and to take care of the other man whoever he may be. You are the foremost man of all this world in regard of respecting the law. Call in the law, John, on all occasions. If you can find the law round the corner, run after it and bring it on the scene when you see anything wrong; but don't you touch the wrong on any consideration. Don't you interfere whatever you see. It's not your business. Call in the law, John. You shall not take the law into your own hands. You are a good boy, John, and your business is to be a by-stander, and a looker-on, and to be thought for, and to be acted for. That's the station of life unto which you are called. Law is an edge-tool, John, and a strong arm, and you have nothing to do with it. Therefore, John, leave this all-sufficient law alone, to achieve everything for you, and for everybody else. So shall you be ever, ever the pride and glory of the earth; so will we make patriotic speeches about you, and sing patriotic songs about you, out of number.'

"So, by degrees, it is our sincere conviction, John gets to be humbugged into believing that he is a first-rate citizen if he looks in at a shop-window while a man is being murdered, and if he quietly leaves the transaction entirely to law, in the person of the policeman who is not there. So, when law itself is down on the pavement in the person of the policeman, with brute force dancing jigs upon his body, John looks on with a faith in law's coming uppermost somehow or other, and with a conviction that it is law's business and not his."

Some time after the disbandment the editor of the New York *Tribune* writes:

"A cursory view of history affords us nothing like the San Francisco Vigilance Committee. The last mail from California brings us an address which may be regarded substantially as the abdication of its authority. It surrenders with a grace quite germane to its original pretensions. In its manifesto, without abandoning its vigorous and at the same time quiet grasp upon illicit authority, it pays tribute to the law and the constitution; and decrees that it will hang no more thieves and murderers, if only the regularly constituted judicial authorities will perform the necessary strangulation. And the gentlemen of the executive committee appear to have arrived at the conclusion that hereafter it will be safe to allow juries to convict and judges to sentence. Petit larcenous persons will have no more chance; the burglariously disposed will be packed off to the state-prison which cost so much money; the judges have grown suddenly honest, and the jurors models of incorruptibility; and so the Vigilance Committee, having done its work, retires. We cannot permit it to retire without paying it a certain meed of

respect. Without pretending to vindicate, we may say something in extenuation of its usurpations.

"And, first, of these usurpations. Anything more equitable can hardly be discovered in the world's annals. The formation of the first Committee was a revolution without the excesses of a revolution. We think we may say that, in all the records of popular uprisings, nothing can be found to challenge it. Here were men deserting their daily and most profitable avocations, risking their own lives and liberty, flouting to their very faces the legally constituted judicial authorities, ignoring the state jurisdiction, spending their personal money freely, since the public expenditure brought no requital, determined that, at all hazards, there should be no more miserable marauding and murdering in San Francisco. The immensely flagrant must swing, the suspicious and disreputable may give leg-bail. 'But, hereafter,' said this Vigilance Committee, 'we will not live in this perpetual condition of alarm. Hereafter the bread shall not be stolen from the very lips of our dearest. Judges are false, juries are venal. No scoundrel, however scoundrelly, but goes unwhipped of justice. On the other hand, he whips us, who strives to be honest. *Ergo*, if we catch him purloining or murdering we shall be under the necessity of requiring him to walk out of this upper-story door of a warehouse, with a new hempen cravat, by us for him especially devised and twisted. As for the minor sinners, let them, in the devil's name, depart, under the pain of capital execution if they return.' A notable resolution, suggestive, undoubtedly, of anarchy, and easily to be proved illegal, by the smallest reference to the smallest law library in this country. Very terrible, no doubt, to the adventurous gentlemen who were compelled to walk out of the elevated doors. Positively inconvenient to the hard workers at private pockets. Quite disgusting to the burglars. A perfect misery to the murderers. A general bursting up of speculations not upon good terms with the statutes. Honesty to be observed, upon pain of dancing upon nothing. Very bad! It is due to these Vigilant Committees, both the first and the second, to say that in no one instance have we discovered any abuse of their authority, nor any attempt to employ their power for private ends. We cannot learn that either of them have hanged any person who did not, as human opinion goes, richly deserve hanging. The people banished were just the people to be banished; and it is only to be objected that no one has a right to obtrude his personal nuisances upon his neighbors. The gentlemen who, for the sake of social order, cheerfully submitted themselves to the chance of indictment, sentence, and execution, must have taken very wide, and we fear that we must add, very wise views of public responsibility. No more than revolutions are Vigilance Committees to be recommended. But, as necessity knows no law, we do not propose to prescribe laws for necessity. And yet all of us will be pleased to learn that the police condition of California authorizes the virtual disbanding of the Vigilance Committee. Law is certainly better than anarchy, whenever anarchy is not the better law."

There were many fears expressed at the time, in California and elsewhere, as to the permanent evil re-

sults following this unnatural state of society in the popular assumption of power, and in the reaction which must ensue. But indeed such fears were unnecessary. Upon what should it react? The demonstration itself was a reaction, a reaction of crime upon its own head. It was the bursting of accumulated social abuses, the natural result of a long sequence of political evils. As well might one caution the physician to beware of the reaction of the disease one had brought on one's self. With the removal of the moral rottenness which fermented the outbreak, there was nothing for the movement to react upon. To suppose the busy merchants composing the executive committee desirous of office, or of subverting righteous rule which should protect them and their property against villainy, was preposterous. Had they wished to rule they might easily have made themselves governors, legislators, and judges, in the legitimate way, and without resorting to violence. Nor was it against those that misruled them, even, that their wrath was directed, but the enemy of these so-called rulers, whom with their law they could not reach. The men of law and government should have risen in a body and have thanked these merchants for thus relieving them of a monster with which they could not successfully cope.

CHAPTER XXXIII.

THE CASE OF HERBERT—FEDERAL FROWNINGS.

> Men the most infamous are fond of fame,
> And those who fear not guilt, yet start at shame.
>
> *Churchill.*

Almost simultaneously with the heralding to the world of these deeds of blood in California, was a murder, perpetrated by one of California's representatives in congress, which should heap yet higher blasting ignominy upon the head of our devoted country. On the 8th of May, in Washington city, shortly after eleven o'clock A. M., Philip T. Herbert, member of the house of representatives from California, entered Willard's Hotel, where he took his meals, and called for his breakfast. The waiter placed before him all at his command, and then informed the honorable gentleman from California that to obtain a hot breakfast from the kitchen at that hour, an order from the office was necessary. This was the provocation. For this the chivalrous gentleman deemed himself warranted in killing the menial. Nor would his law and order friends in California, though they might not openly justify the act, have him hanged for it, as he richly deserved.

After applying to this and other servants in the room epithets too disgustingly profane for record, he rose from the table and struck one Thomas Keating on the back of the neck with his fist. The waiter turned upon his honorable assailant; other waiters came to his assistance; a Californian friend of Herbert's rushed to his rescue, and for a time plates and chairs were in

lively commotion. To be short—for I can assure the reader I take neither pride nor pleasure in recording it—in the midst of the *mêlée* Herbert drew from his pocket a revolver, and putting it to the breast of Keating, shot him through the lungs. The victim died in five minutes. No more dastardly deed blots the annals of California. Cora's murder, Casey's murder, were acts of heroism compared to this. A representative of California in congress, to kill a hotel waiter for not doing what was absolutely beyond his power to do! And yet the murderer was not hanged. He was not even punished. He was a congressman and his victim a poor Irishman; besides, his constituents at home were behaving but little better. There was not a decent man in California who when he heard of the act was not sick with shame that he lived in a country where such men were chosen for office. Herbert was a Mariposa monte-dealer. He was of the class composing the law and order party, as was John B. Weller, United States senator from California, who volunteered his services to obtain Herbert's release from the courts, on the ground of his position as representative of a sovereign state. Cool.

Yet not to be uncharitable, I can easily see how it might all come about naturally enough. This man Herbert did not go into the breakfast-room that morning with the intention of killing a servant. Had he not carried a pistol, probably he would have been beaten by the waiters as he deserved, and that would have been the end of it; and this may be a commentary against the carrying of deadly weapons by irascible politicians. He had been drunk the night before, had lost heavily at the gaming-table, and he went into the hotel with his head exceedingly sore. One word, one deed, led to another, and in the heat of passion this brute—no, I will not so defame the animal creation—this human hyena, politically, patriotically, chivalrously murdered an Irish waiter for not bringing him a hot breakfast from the kitchen

after the breakfast hour had passed and he could not get it. Blush, California! Hide thy head in shame! This, thy representative! Would that the San Francisco Committee of Vigilance had been in Washington at the time.

The grand jury of Washington indicted him, and for a short time he was imprisoned. Even this Philip regarded as a great hardship. The Dutch minister, Du Bois, who was in the dining-room at the time, threw himself back upon the privileges of his position and refused to testify, greatly to the prejudice of justice and his own honor. Had it been a Dutch waiter instead of an Irish waiter, the Dutch minister would have given his evidence. It would have been his business to have done so. But what was the life of an Irish waiter to a Dutch minister? On the first trial the jury disagreed; on the second almost as a matter of course the criminal was acquitted. How good the law to such as Laura Fair and Philip Herbert; but a poor friendless Mexican or Irishman it must needs bravely hang for example's sake. Not long after Washington had another humiliation, if such scenes humiliate her, in that display of cutthroat chivalry made by Brooks of South Carolina in his attack on Senator Sumner, so that California stood not alone in her infamous glory. Shame loves company.

Herbert in his younger days left Alabama for having killed a fellow-student at college in Tuscaloosa. The heart sickens at the recital of such disgusting deeds—deeds far more damning in the sight of God and all just men when perpetrated by persons of some cultivation, than when done by beings brute-low in instincts and ignorance. From my soul I pity the poor wretch who in a fit of drunken frenzy plunges his knife into the breast of a comrade, only the next moment to bewail the loss of a friend, no less than the consequences of his sin. I could stand beside that Caliban upon the scaffold, and

wipe the perspiration from his bloated face and call him brother, even though Caliban's country was not my country, even though, blessed be God, Caliban's mother and childhood were not my mother and childhood. But if there be in human form a fiend, if there be aught the sweet heaven smiles on fit only for Tartarean depths, such an one is he to whom God has given intellect, culture, and opportunity, but who from his own inherent baseness prostitutes all in the hot-bed of loathsome passion. To feed the fire under such a soul one would almost serve as deputy to Satan.

Such were the men the odium of whose sins good citizens had to bear. And next to the disgrace attending the murder was the disgrace attending the defence of the murderer by California's senator, a defence which seemed to make all California a party to Herbert's villainy. But this was only on a par with law and order government at home. There were many desperate characters who did no worse in California than at the east. But these were not the people of California. "We tell this senatorial apologist for the crime of a congressman that California's heart beats with no response to the appeal he made," spake the voice of the Pacific. "We tell him that the picture presented of the widow of that poor Irishman bearing her babe to the court-house, and in the frenzy of her grief calling upon it to look upon the murderer whose act made it an orphan, makes many a heart here swell with sympathy for that mother and that child, and indignation against him who with cruel hand slew the one to whom both looked for support. We tell him that his constituents bow their heads with shame to recognize in such a man as Herbert their representative. We tell Senator Weller that his defence of the murderer Herbert does him no honor here."

Ay, next to the sin of the murderer is the sin of the advocate or judge who by reason of that very wealth, intelligence, and position which should have

taught the haughty criminal better behavior, by reason of those very circumstances which add tenfold to his damnation, shields him, winks at his wickedness, and lets him go free. It is enough to disenchant a man of humanity, and make him long for a brute existence. If in this same *mêlée* the congressman had been killed, would not the waiter have hanged? Yet the congressman, because he was a congressman, and a gentleman, as chivalry would call him—yes, gentle as Genseric, the scourge of God—was indicted for manslaughter only, and after giving bail in the sum of ten thousand dollars, took his seat in the house as if nothing had happened. Said one of the discriminating commentators on the characters of two of this class, Herbert and McKibben: "Phil is a scamp by nature and profession. He will cheat at the gaming-table, but Mac is an honorable man and plays always on the square."

The quality of law and order representation in congress as manifest in John B. Weller and Philip T. Herbert was certainly not such as to do credit to their cause. If all were as they, the law-makers of Washington could but feel that in truth there was need of regeneration.

"Every lover of republican institutions," says Weller, when made governor—for California did make this ruffian-defender governor—in his inaugural of the 8th of January, 1858, "must deplore the disposition so frequently manifested by a portion of the people in different sections of the country, to take the law into their own hands, and place the regularly organized tribunals at defiance. Ours is emphatically a government of law, and that law is the essence of popular will as expressed through constitutional channels. In its execution the sovereignty of the people is manifested. It may be that the law sometimes fails to give adequate protection to person and property, but the fault will generally be found with the people themselves." The politicians were pure, the law was

perfect; the people only needed regeneration. Well! there was too much truth in the charge; only the people with the mote in their eye could see the justice of the remark more clearly if the political beam was removed from the eye of those who made it.

Not a word condemnatory of Herbert's conduct nor of Weller's course the *Herald* makes; not a word of commentary even. Still harping on the Vigilance Committee and their acts; still inventing excuses for every outrage committed, for every villain arrested. So small a matter as the killing of an Irishman by the representative of the law and order party at Washington was not worthy of notice.

The appearance of Herbert in San Francisco, on the 17th day of September next after the murder, fell upon the people like an unwelcome visitation. In company with his law and order friends he strolled about the streets, conspicuous in his hardened guilt, eyed with admiration by the cutthroat fraternity, eyed as one would eye a loathsome reptile by all right-minded men. The next day a committee of citizens waited on him at the St Nicholas Hotel, having in their hands a sealed petition signed by two thousand persons, which they handed him with appropriate remarks.

Trembling like an aspen, while visions of Caseys, and Hetheringtons, and long lines of vigilance soldiers rushed through his brain, for of necessity so foul a thing was craven, the murderer broke the seal and read:

"*To the Honorable P. T. Herbert:—*

"We, citizens of California, believing that you have forfeited your claims and rights as our representative, and that by your course at the national capital you have deeply injured the fair fame of the State of California, both at home and abroad, would therefore take this course to make known our wishes, and to respectfully request of you that you would not again make California your residence."

"*San Francisco, August 25, 1856.*"

A fortnight after, advices were received of the death of Mrs Keating, occasioned by grief for the husband killed by the honorable representative from California.

Herbert departed; he dare not remain; but he went not without a fling at his archenemy the King family.

Among journalists and politicians invective attained perfection. P. T. Herbert was not without talents in that direction. As a sample, I give a quotation from a communication addressed to the people of California, published as an advertisement in the *Herald* of November 5th. "Among others claiming to be independent," he remarks, "no one seems to have attained so conspicuous a position as one Thomas King, the gold-bought editor of a sheet devoted to public libel, known as the *Evening Bulletin*. Were it elsewhere than in California I would apologize for the use of his name. From his character in Washington and his conduct in San Francisco, I can truly say I know him a notorious liar, I think him a great way fool, and a solely coward. From the time of his advent into public life, when he first emerged from the obscurity of his dark and infamous individuality, his only ambition has been to become the prince of blackguards, the most consummate of liars, the most infamous of villains, and the most craven-hearted of miserable cowards; and here I venture the prediction, he has never done an honest act where a dishonest one could be made to serve the same purpose. In Washington his want of fidelity to his obligations is proverbial, for he has violated the most solemn of all plighted vows, either before God or man. And I warn the people against this hypocritical dog under the mask and garb of moral character, else he might steal from them the treasures of their lives. This miserable thing, the propagandist of morality! God save the mark!" It seems Herbert had sent King a challenge which the latter laughed at. Singular ideas the law-making duellists had.

That same evening the *Bulletin* says:

"To-day, California will be purged of one more of the infamous characters who disgraced her in the eyes of the civilized world, of one who held a position obtained through vile means, the ignorance of the true nature of the

beast, forced on her by the corrupt primary election system, and the money of the gambler. We allude to P. T. Herbert, the Mariposa monte-dealer, the murderer of Keating, and the rowdy congressman. We are glad that our state will be rid of his blighting presence, and our citizens of the mortification they feel, that one bearing the mark of Cain, with less to recommend him to the sympathy of his race, and with a character so hideous in crime that even the vilest of men turn from him in horror and disgust, should have the opportunity of misrepresenting them for another three months in the national congress. Since the return of this miserable man to our state, he has been remarkably quiet. He has been shunned by all decent men as the plague would be; his bloody palm has never touched that of a gentleman. His associates have been men of his own class, of easy virtue, who would not be tolerated in respectable society. Only once, to our knowledge, has he been approached by gentlemen, and that was on his arrival, when he was presented with a petition from a large body of our citizens requesting him to leave the state, and expressing their indignation at his vile conduct. Our citizens have so far respected the law as to refrain from inflicting any bodily punishment upon the murderer, and he has been very careful not to afford them an opportunity to administer the justice he so recently escaped. He has hardly yet, notwithstanding the liquor imbibed for the purpose of keeping up a false courage in the eyes of his fellows, recovered from the shock which his guilty conscience and craven spirit received when the petition above referred to was presented to him by a few of our citizens. One moment longer, ere the character of the formidable document was revealed to him, and he was assured that it was not the mandate of '33, Secretary,' and the murderer would have fallen from fear. The public have the satisfaction of knowing that although this criminal may have the impudence to present himself at the next session of congress, their unanimous condemnation of his deeds has been spread before the world, and a petition will be presented to the House of Representatives that, should he have one spark of shame or manliness left, will cause him to shrink into his former obscurity, with, we hope, a determination to seek some honorable livelihood in the future. We understand that this double murderer, backed by a few of his chosen friends of disreputable character, has been dogging our steps for the purpose of assassinating us, should he and they meet with a favorable opportunity. We warn these parties, some of whom were participators with McGowan and Casey in the recent murder which caused such an upheaving of the popular will, that they are all marked. As for us, we do not intend to suffer ourselves to be provoked into an assault; but shall, on all occasions, be prepared to resist the slightest demonstration of an attack. Should we in the *mêlée* be overpowered by the number of the hounds, who are too cowardly to hunt other than in a pack, we feel assured that every one of the dastardly crowd will be speedily sent to answer to that high tribunal where the souls of men are canvassed, and punishment inflicted according to the deeds done in the body."

As late as March 1861, the *Nevada Journal* remarks:

"Phil T. Herbert, the Irishman-killer, has a letter of his published in the Mesilla *Times*, calling on the people of Arizona to call a convention to act

with the south against the union. Phil says he will probably be a commissioner to Arizona and New Mexico, from the 'Sovereign state of Texas,' and that he was opposed to referring the Texas ordinance of secession to the people, 'thinking it unnecessary, and crouching to the demands of our enemies.' The *Times* contains a call in accordance with the suggestion of Phil Herbert, signed by more than sixty names, half of whom are greasers or foreigners. Phil Herbert once represented the democratic party of this state in congress."

The 28th of July a resolution passed the senate requesting the president to lay before that body any application by the governor of California to maintain the laws and peace of the state against the usurped authority of an organization styling itself the Committee of Vigilance, and also any information he might obtain as to the proceedings of that association. In compliance with which the 6th of August the president sent a message to the senate with reports from the secretary of the navy and the secretary of state and all the correspondence in their possession on the subject, including the letters already given and those which follow.

Among the most important are those from Farragut and Boutwell to Secretary Dobbin of the United States navy at Washington, before alluded to:

"NAVY YARD, MARE ISLAND, July 2, 1856.

"SIR: I had the honor of addressing you, by the last mail, on the subject of the revolutionary movement in this country. You will now perceive, by the journals of the day, that the Vigilance Committee claim it to be a successful revolution, inasmuch as they have completely overpowered the law and order party, taken the few arms, with our old naval store-keeper, Maloney, and Judge Terry, of the supreme court. Although you have, no doubt, seen the various accounts in the papers, I deem it my duty to give you my account, as a disinterested looker-on; for the community is at this time in such a state of excitement, that no one appears to see more than one side of the affair. Every one feels that we are on a volcano, and is mentally feeling for the first sensation of explosion.

"After the governor had issued his proclamation calling out the militia, and failed to obtain arms for them from General Wool as he supposed he would, General Sherman resigned his command of the state forces, and General Howard was appointed his successor. He, very unwisely, attempted to organize the state forces in the city of San Francisco, where the vigilants had six thousand men under arms, with artillery, and the most perfect system of espionage. The general's next movement was to procure a few stand of arms from General Wool, which were due to the state by annual distribution; they

were delivered to one of General Howard's men, Maloney, who, while on his way to San Francisco from Benicia, in a sail vessel, was boarded at two A. M., captured, and the same were taken to the Vigilance Committee rooms. Maloney and his party were released; but a short time afterwards, upon reflection, the Committee determined to re-arrest Maloney, for reasons best known to themselves, and sent a police guard from their own forces after him. By this time he had reached Dr Ashe's room, where, by appointment, he was to meet the general and make his report as to the result of his expedition. He was followed thither by the vigilants, who, on entering the room, requested Maloney to accompany them to the Vigilance Committee rooms.

"Maloney asked if they had any warrant for him, and being answered in the negative, he declined going; and Dr Ashe and Judge Terry, who were present, ordered the vigilance police out of the room. They immediately went for reënforcements, and the party in the room set out for the armory, or assembly room of the law and order party, intending to resist the Vigilance Committee in attempting to take one of their company, as Maloney was one of the militia company of Ashe's command called into service by the governor. Joined by some eight or ten others while retreating toward the armory, they were overtaken by the vigilance police before they reached the room, when Terry and Ashe faced about and told them to stand off; they rushed on, however, and attempted to wrest Judge Terry's gun from his hands, saying that they would take him and his gun too. The struggle became fierce between the vigilants and Terry and Ashe, until at last a pistol was fired; Dr Ashe and others say it was fired by one of the vigilants at Terry, but their party say it was fired by accident, but it is evident they thought it was fired at them, the ball passing between them. At this moment Terry drew his bowie-knife with his left hand and struck Hopkins, one of the vigilance police, who had hold of him, on the neck; whereupon the police fled, and the law and order party made good their retreat to the armory, where, in a few minutes after the tap of the bell on the roof of the Vigilance Committee buildings, they were surrounded by three or four thousand men, armed with muskets and cannon.

"There were but sixteen men inside of the armory, all of whom were willing to die there and then, but Judge Terry said, 'No, it was his life the vigilants wanted, and that his friends should not be sacrificed for him;' so they surrendered and were conveyed to the Vigilance Committee rooms. The next day all but Judge Terry and Maloney were released upon parole. Commander Boutwell wrote a letter as soon as he heard that Dr Ashe was confined, to the Committee, and he was released upon parole. These are the facts, as far as I have been able to learn them from the most disinterested persons.

"Now, the Vigilance Committee claim that, if Hopkins dies, Judge Terry shall be hanged, as guilty of murder; and as Judge Terry's friends are very numerous, and are generally warm-hearted, impulsive men, if this man Hopkins dies, and Terry be hanged, there is no predicting the result. They are now smothering their feelings for the purpose of endeavoring to save Judge Terry's life, for on the first hostile movement they will take his life; it is so understood. There is very little doubt but that the Committee is anxious that Hopkins may live, and that they regret the whole affair; for up to the time of

Terry's arrest the Committee were sanctioned by an overwhelming majority. Now, I think, they are aware they have caused a division in public opinion, and people are beginning to come to their sober senses, and will not be willing to be longer governed by they know not whom. I have been in revolutionary countries, and I could always find some one in authority; but here, although they are in correspondence with me, I know no one, except the bearer of their letters, and should have thought them to be mere messengers had they not told me they were members of the executive committee; therefore, in my replies, I addressed my letters to them, and not to 'No. 33, Secretary,' whom I did not know. There is a great effort made on both sides, to mix us up in these matters, but as I know the tenderness with which the general government touches the subject, I have told them that I shall do nothing without orders; but my views on the subject would be sufficiently explained by my letters to Commander Boutwell and Messrs Farwell and Chase, of the executive committee, without troubling you with a repetition of them.

"That the governor has acted unwisely from the beginning, there is scarcely a doubt; that he could not have done anything but call the legislature together, or appeal to the executive of the United States, is equally clear to me; and it seems to me that was what he should have done, as he had neither arms, ammunition, nor supporters. After having surrendered the prisoners, Casey and Cora, in the beginning of the outbreak, or virtually sanctioning it, and thus giving satisfactory evidence of his weakness, his proclamation should have been conciliatory, and not, as it was, belligerent; and, as it was, should not have allowed his forces to be concentrated in the enemy's camp.

"These are my humble views of the conduct of the governor and his general of militia; all of which is respectfully submitted for your consideration, with the hope that my course in the affair may meet with your approbation.

"I am, sir, very respectfully, your obedient servant,

"D. G. Farragut, *Commandant.*"

"United States Ship 'John Adams,'
Off San Francisco, Cal., July 3, 1856.

"Sir: After going up to the navy-yard at Mare Island, in this ship, Governor Johnson, of California, visited the navy-yard with a view of ascertaining if Captain Farragut was authorized to afford him any assistance in suppressing the revolutionary movement in San Francisco. Captain Farragut and myself concluded that, under the circumstances, authority must be received from the Navy Department before we could act. Some days after my return in the *John Adams* to the anchorage off this city, I was informed on the night of Saturday, the 21st of June, that the navy agent, Dr Ashe, had been arrested by the order of the Vigilance Committee. I wrote a letter that night, addressed it to the Vigilance Committee, and sent it the next day by an officer of the ship; and very soon after Dr Ashe was set at liberty. A copy of my letter and the answer are herewith enclosed. At the time the insurgents arrested Dr Ashe, they also arrested Judge Terry of the supreme court of California, which greatly increased the excitement in the city. Judge Terry and several other gentlemen were attacked in the street by a party of the

vigilance police, and after the judge had wounded a man by the name of Hopkins, of the insurgent party, the judge and his friends retreated to the armory of the Blues. This building was very soon surrounded by hundreds of armed men, with field-pieces to batter down the walls of the building. The insurgents having demanded an unconditional surrender, the law and order party surrendered, and was marched off in triumph to the prison of the Vigilance Committee. On the 27th ult. it was believed that the wounded man was improving, and on the same day I received a communication from the governor of the state, a copy of which, with my answer, is herewith enclosed. Also, a communication from Judge Terry himself, claiming my protection. The appeals of his distressed wife, and the fact that Judge Terry acted in self-defence, would have almost induced me to batter the city down, if I could have done so without destroying the lives and property of the innocent with the guilty.

"On the evening of the 28th, and after I had written the answer to Governor Johnson's official communication, I learned that the wounded man was getting worse, and supposed to be dying. I addressed a communication to the Vigilance Committee, a copy of which is enclosed, and which I supposed would awaken them to the awful responsibility they were about to assume, in taking the life of a judge of the supreme court, an honorable man, an American citizen, and without giving him a fair trial.

"The Vigilance Committee referred my correspondence to Captain Farragut, and as he is senior to me, I shall leave it in his hands. A copy of the application of the United States marshal to place a prisoner on board my ship, is also enclosed.

"I am, respectfully, your obedient servant,

"E. B. Boutwell, *Commander.*"

In reply the following instructions of the Navy Department to the Pacific Squadron were directed to William Mervine, commanding, or to the senior naval officer on duty:

"Navy Department, August 2, 1856.

"Sir: This Department has received despatches from Captain Farragut and Commander Boutwell, covering a correspondence between these two officers, and between them and certain persons in San Francisco styling themselves a Committee of Vigilance. The facts developed by these despatches, as well as the daily events occurring in San Francisco, disclose a state of affairs not only calculated to awaken solicitude and occasion alarm among all law-abiding citizens, but also calling for the exercise of extraordinary circumspection and wise discretion on the part of those who have duties to perform as officers of the United States. Fortunately in our happy country we have a written constitution and laws for the guidance of all who are intrusted with authority, so that the vigilant and discreet officer may confidently expect the approbation of his government while he steadily treads the path therein marked out for him. However much the president may be shocked at the apparent rebellious attitude of the people towards the government of their

state, however strong may be his conviction that it is a case of domestic insurrection, yet he has no authority of his own mere volition to order the interposition of the army and navy, and cannot exercise that power except in strict accordance with the constitution, and until certain forms pointed out by statute have been duly complied with by the authorities of that state. Nor can the officers in command of naval forces interpose on the requisition of the governor or other high functionaries of one of the states, except in pursuance of orders received from the executive department of the United States. The machinery of our government is simple yet complex. The powers delegated to it are well defined and limited. A strict observance of them within their prescribed limitations and restrictions can alone save our union from the dangers which would inevitably imperil it in the event of a rash conflict between the federal and state governments. Before interfering with the domestic troubles in California, you will await the orders of your government. But duties of a somewhat different character may devolve upon you, and events may possibly occur requiring your interposition. The laws of the federal government must be sustained and its property protected from violence.

"The extraordinary state of affairs in California can hardly be understood at this remote point, particularly when the accounts are conflicting. Statements in the press, emanating from eminent and well known citizens, intimate very strongly that this incomprehensible movement is not to end with what was avowed to be its original purpose, but that graver and more alarming events are contemplated. The president indulges a hope and belief that such conclusions are without substantial foundation. Still, he considers it wise, under the circumstances, to be prepared for emergencies. You will, therefore, have either at Mare Island or San Francisco two or three national vessels, and retain them until the insurrectionary movements at San Francisco shall cease. One of them, if practicable, should be a steamer. You will, however, not order the *St. Mary's* from her present position unless you find it indispensable for the successful execution of these orders, and unless her presence is not needed at Panamá for the protection of citizens.

"The present object is the protection of the public property and officers of the federal government, nothing more. Should you be advised by the collector of customs, the superintendent of the mint, or judicial officers of the United States in the discharge of their duties, the sub-treasurer, or any of the public functionaries of the United States, that the public property is in danger, or that they are molested in the discharge of their duty, you will take judicious but firm steps to afford prompt protection both to the public property and the officers.

"You will furnish a copy of this dispatch to the commanding officer of every man-of-war on the station.

"I am, respectfully, your obedient servant,

"J. C. Dobbin."

The question came up for discussion in the United States senate the 29th of August, when Mr Houston

presented a memorial from the legislature of Texas, praying federal interference. Bell of Tennessee believed but for Terry's rash and quarrelsome nature, which embroiled him in these disputes, the Vigilance Committee would have long since disbanded. He further stated that neither party interests nor disloyal sentiments were involved in this organization. Weller of California disagreed with Senator Bell, and intimated that it was a movement preliminary to open secession. It would give him the greatest pleasure to be able to say that his constituents, all of them, were loyal to the government, but he could not claim for them that honor.

Senator Weller did not relish placing himself in open opposition to so large a body of his constituents as the Vigilance Committee, with its thirty thousand and more advocates throughout the state. On the other side, his party—for he was of the band of lawless disorder, a supporter of Herbert, the murderer, and a man of chivalry—urged him to action in the senate. So Weller induced Senator Pugh to introduce a resolution of inquiry of the president which should call forth some sentiment of sympathy for the law and order party. The trick was very transparent. When California had senators of her own, what special interest was it to the senator from Ohio? And all California sneered, and said—pugh!

By the steamer *John L. Stephens,* arriving September 30th, came the news that President Pierce had at length responded to the requisition by sending orders to the commanders of the military and naval forces on the Pacific to afford the governor of California the aid required to suppress the insurrection of San Francisco. It will be noticed that these instructions were not sent until intelligence had reached Washington which rendered it pretty safe to conclude that the Committee would be disbanded before resort to arms could be had at San Francisco.

But this does not justify the president in his petty

subterfuge. Either he should have sent aid promptly or he should not have sent it at all. There had been no meeting of the legislature in the mean time, no request. All the United States troops then on the coast and the law and order party combined could not have put down the San Francisco merchants. The whole state would have rushed to their rescue. These derringer demagogues and bowie-knife magistrates might have precipitated a bloody war, but until they received further assistance they would have met only with defeat.

CHAPTER XXXIV.

THE GOVERNOR'S WITHDRAWAL OF HIS PROCLAMATION AND MESSAGE.

Even a fool, when he holdeth his peace, is accounted wise.
Proverbs.

Out of pure obstinacy, and in order to reward the fanaticism of his journalistic friends, the governor kept in the public prints his proclamation declaring the city of San Francisco in a state of insurrection, long after the Committee had disbanded. It was of no avail the people complained of the expense. The temptation was too great; next to being a great tyrant his pleasure seemed to consist in being a little tyrant. Besides rewarding Nugent—for as a matter of course the proclamation was printed in the *Herald*—doubtless he thought it might affect elections, might possibly invalidate the claim of successful state or federal candidates to hold office. But in this he was mistaken, for legislative bodies judge for themselves of the legality of the election of their members. It may be he thought to trammel municipal powers; but there again he was at fault, for seldom is a municipal election declared null through any little informality. Besides, San Francisco could rule herself, and the governor, too, for that matter, as none knew better than he. Indeed his proclamation was nullified by the sense of the people as soon as it was promulgated; it was immediately placed under foot by public opinion and there remained a dead letter.

It is the trap the fox complains of, not himself. The reasons given by the governor for not withdraw-

ing the proclamation were that the Committee still held arms belonging to the state which they refused to deliver up, and also that trouble was brewing in the matter of the shrievalty of San Francisco. The office of sheriff had been declared vacant by the board of supervisors in consequence of the failure of Scannell, the incumbent, to renew his bail-bond of one hundred thousand dollars, made worthless by the failure of Palmer, Cook, and Company. Should Marshal Doane, then a candidate for the office, be elected, as there was no doubt he would be, it was said that he would seize the office by force of arms if he could obtain possession of it in no other way. The only real manifestation of the proclamation's presence in San Francisco from the beginning was the adjournment of the district and superior courts from the Thursday after the city was declared in a state of insurrection till the following Monday.

Johnson had arrived at that state apparently, when he was ambitious of popular condemnation. "The delay of this least executive of executives," says the *Bulletin* of the 8th of October, 1856, "this governess among governors, to withdraw his insolvent proclamation declaring our city in a state of insurrection, gives strength to the probability of its being his intention to allow himself to be used as the tool of the law and murder faction, in depriving us of a voice in the formation of our government."

This constant gnawing at the file was wearing the governor's teeth away. Having arrived at the conclusion that a continuance of the proclamation over election-day would do his friends more harm than his enemies, the governor determined to withdraw it. But first he must get the arms if possible; he would make the Committee knuckle to him in something if he could. So he intimated to Mr W. C. Jewett that if the Committee would deliver up the arms before election-day he would withdraw the proclamation, but this the Committee at first declined to do. They

would give up the arms, they did not want them, had never needed them, and never intended to keep them. But they would do nothing which might appear the result of coercion or policy. The governor had issued his proclamation in opposition to the wishes of the wisest; let him withdraw it when he pleased.

But the Committee soon thought better of it. It was a matter after all not worth quarrelling about; their friends advised it and they did it. The governor was making it a pretext, it was said, to continue his anathema in force, and they wisely concluded that they would give it him no longer. These were the arms captured by Durkee from Maloney. The 3d of November they were delivered to General Kibbe, their legal custodian. Kibbe telegraphed the governor that they were in his possession, and the governor replied that his proclamation would be withdrawn within an hour. It was done; and being the day before election the governor was glad. It was the loop-hole for which he had long been looking.

These are the words of it:

"EXECUTIVE DEPARTMENT,
SACRAMENTO CITY, CAL., November 3, 1856.

"WHEREAS, on the 2d day of June 1856, satisfactory information having been received by me, that combinations for the purpose of resisting the execution of legal process by force, existed in the county of San Francisco, in this state, and that an unlawful organization, styling themselves the Vigilance Committee, had resisted by force the execution of criminal process, and the power of said county had been exhausted, and was not sufficient to enable the sheriff of said county to execute said process: I did, in performance of my duty and the exercise of the power and authority vested in me by the constitution and laws, as the governor of the state of California, on the aforesaid day, issue a proclamation declaring the said county of San Francisco in a state of insurrection; and whereas, I have this day received satisfactory information that the causes which required the issuance of the same no longer exist, I do therefore revoke and withdraw the said proclamation.

"J. NEELY JOHNSON."

In his message of January 7, 1857, to the legislature of California, the governor reviews his entire course; and although it is only a somewhat tiresome repetition of what has already been said, in order to

give him a fair opportunity to speak for himself, and that the reader may hear him at his best, I make room for it. It may be that I am prejudiced in my views of his character and motives; if so, the reader will judge for himself.

"Since the adjournment of the last session of the legislature, events have transpired, which, from their extraordinary character and disastrous consequences, must constitute an epoch in the history of the state; events, from the very contemplation whereof the lovers of good order and constitutional supremacy must turn with mingled feelings of sadness and regret. On the 16th of May last, serious apprehensions then existing that a forcible attempt would be made to wrest from the custody of the law a prisoner confined in the jail of San Francisco on a criminal charge, in compliance with a request from the mayor of that city I proceeded thither, earnestly hoping that I might be serviceable in allaying the prevailing excitement, and inducing obedience to the mandates of the law. Upon my arrival I learned that a numerous body of citizens, under the name of the Vigilance Committee, was secretly organizing for the purpose of rescuing the prisoner and inflicting on him summary punishment. Conscious that it was my duty, as executive of the state, to leave unemployed no honorable means of securing submission to the law, and averting a calamity so deplorable as the collision which was threatened, I proceeded in company with several citizens to the place where this Commtitee had assembled, and announced it as my purpose to communicate with them, or any person authorized to represent them. One of the Committee thereupon presented himself, whose character and position justified implicit confidence in the statement which he made of authority to speak in their behalf, which assurance on his part has been strengthened by the conspicuous station he subsequently occupied as their president.

"During the interview which ensued, it was distinctly stated that the object of this Committee was not to violate the law, or resist its legalized authorities, but rather to aid the officers of justice in preventing the escape or rescue of the prisoner; and that they did not contemplate his punishment by taking the law in their own hands. So loyal were the sentiments expressed, and so positive the declarations made, of their designed obedience to law and the legitimate authority, that I could not either disbelieve or doubt them. On the faith of these assurances, arrangements were then made which it was anticipated would, whilst tending to secure the prisoner, also serve to calm the popular excitement and vindicate the majesty of the law. These anticipations, however, were but brief in their duration, and scarce a day had passed ere this delusion was apparent. The numbers of the Committee multiplied from day to day, and incited by the appeals of an incendiary press to deeds of violence soon the rally-cry was 'Death to the prisoner!' The military, organized under authority of the state, with a few noble exceptions ingloriously deserted the post of honor and of duty, and either abandoned their arms to the state, or yet less honorably carried them into the ranks of the Vigilance Committee. An inconsiderable number of the military officers sought to es-

cape the responsibility of the solemn oath they had assumed, by a proffered resignation of their commissions, whilst others wholly dispensed with this formality, and swelled the ranks of those who were defying the constitution and the laws which they had sworn to honor and maintain. In vain the authority of the sheriff was strenuously exercised to protect the jail. His orders were disregarded and defiance hurled in his face by those who were summoned to this duty, whilst the defection in the military ranks left but a meagre dependence on their aid. Thus situated, with but a handful of gallant men, ready, if need be, to imperil their lives in the performance of duty, approached as he was by thousands of armed men, who from the position of the prison, held complete command, it became evident that resistance involved the destruction of the guard, without securing the safety of the prisoners, and he was therefore reluctantly compelled to yield to the infuriated multitude the victim whom they sought, and yet another inmate of the prison. A few days later, and the utter disregard of the civil authorities which this Committee exhibited was more openly avowed and manifested by the execution of both the prisoners whom they had seized. Neither did their unlawful proceedings find here cessation. So alarmingly increased was their assumption of power and resistance of the law, that at length on the third day of June I was notified by the sheriff of the county that criminal process in his hand had been forcibly resisted and the power of the county was not sufficient to enforce it, and requested to invoke the military power of the state to his aid.

"On the same day I issued a proclamation declaring the city and county of San Francisco in a state of insurrection, under the provisions of section 48 of 'An Act to regulate proceedings in criminal cases,' passed May 1, 1851, which reads as follows: 'Section 48. When the governor shall be satisfied that the execution of civil and criminal process has been forcibly resisted in any county, by bodies of armed men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted, and has not been sufficient to enable the officer having the process to execute it, he may, on the application of the officer or of the district attorney, or county judge of the county, by proclamation, to be published in such newspaper as he shall direct, declare the county to be in a state of insurrection, and may order into the service of the state such number and description of volunteer or uniform companies, or other militia of the state, as he shall deem necessary, to serve for such term and under the command of such officer or officers as he shall direct.'

"Thus it will be seen by the law just quoted, and the demand made by the sheriff, that my duty in the case was plainly indicated, and the issuance of the proclamation, under the existing circumstances, was imperatively demanded at my hands. In consequence of the limited supply in the state armory, the want of arms wherewith to render effective a military force had already been foreseen, and anticipating the probable necessity of such a force, I had a personal interview with the commander of the United States military of the Pacific division, General Wool, on the 31st of May, and procured his promise to furnish on my requisition, such arms and ammunition as I might require, so soon as I issued a proclamation of insurrection. In accordance with such understanding, application was made to that officer immediately after the

proclamation had been issued, and also at a later period, both of which applications, for reasons to himself best understood, were peremptorily refused, and the only arms obtained from that source were a small number of muskets, to which the state was entitled, under the act of Congress providing for a general distribution of arms.

"In the mean while the existence of the Vigilance Committee continued, and assumed the character of a permanent organization, which designed not only to usurp the control of legal authority in San Francisco, but, as indicated by the tone of the press under its special patronage, the inflammatory addresses of its speakers, and the repeated acts of aggression against the most sacred constitutional rights of the citizen, aimed also to extend its power to the subversion of the state authority; and, if federal intervention soon ensue, the establishment of a government entirely independent of the union. In this alarming condition of affairs, I deemed the aid of the general government necessary to our protection, so far at least as rendering assistance in arms and ammunition was concerned. To convene the legislature in extra session would involve an expenditure which the condition of our financial affairs could ill afford; and furthermore, the time consumed in assembling that body and the adoption of the necessary measures might result in the accomplishment of the very evil it was my purpose to arrest. Moreover, I did not deem it necessary that application should be made by the legislature for such aid as the state required, at least in arms and ammunition, but supposed that the president, on the request of the executive of the state, had ample power to direct the issuance of arms and ammunition. Entertaining these views, I addressed, on the 19th of June, a communication to the president of the United States, and deputed the Hon. R. Aug. Thompson and Colonel F. Forman, as commissioners, to present it to him, and endeavor to obtain the requisite assistance. This application proved unsuccessful, as will be seen by the reply of the secretary of state, enclosing the opinion of the attorney-general, as well as the report of the commissioners. The refusal of the president rendered the state authorities powerless to check this usurpation, and for a time the Vigilance Committee held an undisputed sway in San Francisco. It is needless to recount the overt acts which marked the period of their rule. The seizure and employment of state arms, the arrest and imprisonment of a judge of the supreme court, the banishment of citizens, the daily exhibition of bodies of armed men in public places to intimidate obedience to their authority, these constitute but few of the extraordinary incidents of the time. To arrest the treason and suppress the rebellion, the state was powerless, and the authorities were compelled to calmly await the issue of events. In the mean time the executive proclamation remained until the 3d day of November, when the armed forces of the Vigilance Committee having been disbanded, the state arms having been restored to their proper custody, and the judicial authority of the county of San Francisco having notified me that no further difficulty existed in the service of civil or criminal process, the proclamation was withdrawn, a state of peace restored to the community, a legitimate authority reinstated, and the constitution and laws, so long defied, again recognized and regarded.

"I have deemed it not improper to detail the more important incidents of

this period, and without regard to personal considerations have presented an authentic history of my official acts in this connection, in the conscious belief not less than in the earnest hope that by the judgment of the people the shafts of falsehood and calumny will be repelled, and the course of your executive triumphantly vindicated and sustained. In all that I have done or sought to do, I heeded not the plaudits of the populace, nor feared their threats. I know no higher law than the constitution of my country, and as a rule of action alike incessant and inflexible, the observance of the duties it enjoins will ever be paramount in my regard as a public officer and as a private citizen."

This message of the governor called forth the following reply, prepared by Mr Dempster:

"*To the Members of the Committee of Vigilance:*—

"GENTLEMEN: You are aware that your executive committee, willing to suffer misrepresentation rather than awaken controversy or engender ill-feeling, have carefully refrained from noticing or correcting the numerous slanders and misrepresentations which enemies of the late reform movement have so industriously circulated. The undersigned have realized the wisdom of that conciliatory course. We are second to none in the ardor of our desire to have past differences healed, and should not now address you but for peculiar circumstances which, as they involve questions of personal integrity, and, if unexplained, might warrant imputations upon the character of the entire body, justify us in a brief effort to spread before you the facts. Many of you have already observed that Governor Johnson, in his recent message, has endeavored to fasten upon the Committee of Vigilance the charge of having deceived him as to the first object for which that organization was formed. We regret that this forces upon us the necessity of not only showing to the world that Governor Johnson endeavors to hide the sympathy with the Committee which at the time, in the capacity of private citizen, he voluntarily, repeatedly, and unnecessarily expressed to us, but of refuting also the statements by which he endeavors to make a charge of ill-faith against the Committee plausible.

"His statement is that he obtained an interview with a member of the Committee, and that during that interview he received from him assurances that the Committee did not contemplate any violation of law or resistance to the legal authorities, and had no intention of inflicting themselves the penalty of the law upon the assassin; and he further alleges that it was upon these assurances he made arrangements with the Committee to place a guard from their body in the jail. We shall show you, by a brief statement of the facts, that whatever may have been the tenor of this conversation, at which only one member of the Committee, now absent from the state, was present, any such impression, if derived from it, must have been at once dissipated by the interview he immediately had with a sub-committee of the executive committee, appointed to officially confer with him, as soon as it was known that he desired a conference. We beg your attention to the fact that the conference with this sub-committee immediately followed the interview with Mr Coleman, to which Governor Johnson refers. On Friday night, the 16th of May, while the Com-

mittee were in session at Turn Verein Hall, a message was brought in, that some strangers were at the door asking to see some member of the Committee. This message was delivered to Mr W. T. Coleman, who voluntarily went out to see what was wanted, and, shortly returning, reported that Governor Johnson, his brother, W. N. Johnson, C. K. Garrison, and Wm. T. Sherman were there, and desired to have a conversation with some members of the Committee. Immediately a sub-committee, consisting of Messrs W. T. Coleman, E. Grisar, J. H. Fish, E. Gorham, E. S. Osgood, Miers F. Truett, and S. T. Thompson, was appointed to meet them. Governor Johnson commenced the interview by saying that, as a private citizen, he was a sympathizer with the Vigilance Committee; that the abuses here had grown beyond endurance, but that, as governor of the state, he had a duty to perform, and urged that the Committee should be disbanded, and the courts be permitted to try the prisoner, pledging himself that if found guilty he should be punished.

"Mr Coleman replied distinctly that the Committee would not make any such engagements, and went on to say that the people were aroused, etc. He also remarked that fears were entertained that the prisoner might be removed. Governor Johnson replied that he himself had misgivings on the same point; and after considerable conversation it was proposed that the Committee should place twenty men in the jail, the governor saying that he would go himself and place them in there, and asking the Committee to pledge themselves not to make an attack on the jail while their men were inside. Though it was very reasonable that we should be asked to promise not to require our own men to open the doors for us, yet, so well were we aware of the unanimous desire of the executive committee that no pledge should be made binding the future action of the body, that Mr Coleman replied on the part of the sub-committee then present, that we were only a few of many, and that we had no authority to make any pledge before reporting to the executive committee. The sub-committee then went out and reported to the Executive, by whom the matter was discussed. At first the opinion prevailed that no pledges of any kind should be given. It was argued that the Committee was strong enough to take any measures which seemed to them right, and that though it was proper to treat the governor with becoming respect, a desire to entice them into some pledges or promises was so evident on the part of himself and some of his associates, that communications ought at once to cease. It was afterwards agreed, however, that the sub-committee should be instructed to accept, on behalf of the Committee of Vigilance, the right to place ten men, the number being voluntarily reduced by the executive committee, in the county jail, and to promise that while our guard was in there we should not attempt to take possession of the jail. The sub-committee was also instructed to make no further pledges of any kind, but to say to the governor that we would give him notice when we removed our guard. The sub-committee returned to the governor and reported the decision of the executive committee, and Mr Coleman remarked that he desired to have it distinctly understood that no pledges were made, excepting that the Committee of Vigilance would not attack the jail until we had given him notice that our guard was removed; and further than this, almost the last remark made

to Governor Johnson as they parted, indeed it is believed to be the very last thing that was said to him, was in words about as follows, by Mr Gorham:

"'We fully understand each other now, as long as our men, meaning members of the Committee, are in the jail, no attempt shall be made to capture it, or to take possession of the prisoner, but the moment our men are withdrawn from the jail this treaty is annulled.'

"As all parties were leaving the room, Mr J. H. Fish remarked, 'that there was no doubt but that we understood each other now;' to which Mr Garrison replied, addressing more particularly Mr E. S. Osgood: 'Yes, you'll take the jail and hang Casey and Cora, and the Pacific Mail Steamship Company will do the rest.' He at least did not misunderstand the intention or position of the Committee.

"This occurred about midnight on the 16th of May. Governor Johnson, as he left, stated that he would go immediately to the jail and arrange to have our guard admitted. An officer with nine men was immediately despatched, and on arrival admitted.

"The next morning an exaggerated rumor gained currency, 'that Governor Johnson had surrendered the jail to the Committee of Vigilance. It has been stated that, at this time his own partisans severely blamed him, and that he went to the Vigilance Committee and endeavored to make better terms. However this may be, it is certain that the governor at that time sought another interview with the executive committee, and alleged that there was a misunderstanding of the terms of the treaty of the night before. The members of the sub-committee, who had been present with him on that occasion, were immediately summoned, and confronted with the governor and his associates, and so fully was it proved that he was entirely in the wrong, that Mr Garrison, who was one of his associates at the first conference, remarked to Mr W. T. Thompson, that Governor Johnson, in committing himself with the Committee, had damned himself politically. The members proposed to Governor Johnson at once, that he had only to say the word and we would immediately withdraw our men, when he and the officers of the law, and the jail and the prisoners, would be in the same position as if no interview had taken place between himself and the Committee. This met with no response from him, and as soon as he left, the executive committee passed the following resolution, a copy of which was immediately delivered to the governor:

"'Resolved, that we notify Governor Johnson that we maintain the treaty made with him last night, and that the same involved no pledges on the part of this Committee, except that we should make no attack upon the jail while our guard remained within it.'

"At ten next morning, May 18th, orders were sent to our guard to withdraw from the jail. At eleven o'clock a committee, consisting of Mr H. M. Hale, handed to Governor Johnson the following communication:

"'*To his Excellency J. Neely Johnson, Governor:*

"'DEAR SIR: We beg to advise you that we have withdrawn our guard from the county jail.

"'By order of the Committee,

"'33, *Secretary.*'

"As Mr Hale handed this communication to the governor he remarked to him, 'I presume you understand it,' to which after perusal the governor replied that he did; and being without the means of resisting an attack, he could, of course, offer no opposition, but that if he were provided with men he would certainly protect the jail, as the prisoner had been condemned, and would be executed by the law, and closed the interview hurriedly, saying that he had been sent for by the sheriff, and must go up to the jail. The conversation and manner of the governor, throughout the interview, indicated unmistakably that, after the receipt of the note, he expected an immediate attack upon the jail. Upon the report of Mr Hale to the executive committee, that the above document had been delivered to Governor Johnson, orders were issued to the marshal to set his troops in motion, and at ten minutes after twelve the sub-committee appointed to superintend the taking of the prisoners delivered a note to the sheriff demanding their surrender. These are all the essential facts attending every interview between Governor Johnson and the Committee of Vigilance, or any person authorized to speak on its behalf from the organization up to the taking of the jail.

"You will at once perceive, that even if the brief conversation between the governor and Mr Coleman, when the latter first ascertained who it was that wished to see the executive committee, could have produced upon his mind the impression that the Committee did not intend themselves to punish the crime that had been committed, this feeling must at once have been dissipated by the refusal of the sub-committee, immediately appointed officially to confer with him, even to pledge themselves, until after they had obtained authority from the executive committee, not to attack the jail while their own men were inside to open the gates for them, much less to attack it at all. Even supposing that Governor Johnson could have misinterpreted this positive refusal of a sub-committee of eight to make any statement respecting the course of action that would be pursued by the Committee of Vigilance, the broadest charity cannot imagine that he could have misunderstood the official communication of the executive committee, handed to him in writing within twelve hours of his first communication with them, notifying him distinctly that they had not bound the Committee of Vigilance by any pledge or promise further than that they would not attack the jail while their guard was inside its walls.

"That notwithstanding all of the above facts, Governor Johnson should have endeavored to charge duplicity upon the Committee of Vigilance, in his annual message, is deeply to be regretted, and this statement of the actual occurrences is presented to your notice, in order that the misrepresentations of the governor's message may be properly refuted.

"Having disposed of those charges in the governor's message which directly involved the interviews at which we were present, we deem it not inappropriate to allude to those wholesale charges which the governor reiterates in regard to the alleged ulterior designs of the Committee of Vigilance, to wit: The subversion of the state authority, and, in the event of federal intervention, the establishment of a government entirely independent of the union. It is perhaps scarcely necessary to say to our fellow-members that not even an approximation towards such objects or the slightest

approach to a debate upon them has ever occupied the attention of the executive committee.

"Emile Grisar,	E. Gorham,
"Henry M. Hale,	J. H. Fish,
"W. T. Thompson,	E. S. Osgood."

Upon this matter the *Bulletin* of the 8th of January 1857 thus comments:

"His excellency endeavors to produce the impression that the arrangements preliminary to the surrender of the prisoners from the county jail were made in pursuance of an understanding that the Vigilance Committee did not intend to punish them, but simply to aid the officers of the law in providing against their escape. This course he then believed calculated to allay popular excitement, but says: 'These anticipations, however, were but brief in their duration, and scarce a day had passed ere this illusion was apparent. The numbers of the Committee multiplied from day to day, and incited by the appeals of an incendiary press to deeds of violence, soon the rallying cry was, "Death to the prisoners!"' The idea endeavored to be conveyed here, is that a great change took place in public sentiment in a single day. In making such an assertion, the governor provides for himself a dilemma. Either he was culpably ignorant of the state of popular feeling, which is tantamount to claiming exemption on the ground of imbecility, or he has falsified the record. His account proves him to have either been incapable of perceiving facts, apparent to any child old enough to walk the streets, or to now be guilty of gross falsehood. There was no time, from the hour in which thousands gathered about the portals of Montgomery block on the fatal night of the occurrence which gave birth to these disturbances, there was no moment that followed the one in which they rent the air in shouts for a leader, when any man of ordinary intelligence could fail to see what course the current of events must take in the contingencies of the death of the martyr. The cry of 'Death to the prisoner' was more thrilling, more vehement then than afterwards. Then the excitement was that of a mob; afterwards it was the result of sad, sober reflection, but in both the impulse and direction of popular sentiments were the same, both noble, both justifiable.

"Of the governor's assumption of bad faith on the part of those members of the Committee with whom he conferred, we have simply to say that we do not credit his assertions, when weighed against those of the men upon whom he endeavors to throw discredit. We will be charitable enough to conclude that his present statement is the result of that weakness of recollection which is perfectly consistent with his intellectual calibre as evidenced by his deeds. His slur at General Wool, and assumption that the refusal of that officer to furnish arms for the wholesale slaughter of our population, for reasons to himself best understood, find sufficient refutal in the fact that the action of the federal authorities subsequent to that refusal were in accordance with that course, and based on similar grounds. His blunder in appealing to Washington in an improper manner, the governor endeavors to excuse on the ground of economy, which is beautifully consistent with other portions of

his conduct. It would cost too much to convene the legislature, but no consideration of cost prevented his enlistment of an army of ruffians, and keeping them in service on paper, long after their material existence had ceased, or induced him to withdraw his proclamation from the papers in which it was insolently and expensively paraded for months. Such reasoning needs no refutal. The ignorance manifested by his excellency throughout his proceedings, renders his statement, that he knows no higher law than the constitution, easy of belief; but we cannot consent to limit his want of knowledge to supra-constitutional authority. There are higher than constitutional rights. If there were not, the Declaration of Independence would be an absurdity and revolutions an impossibility. Whether the course of the governor or that of our community has been most in accordance with the principles of human freedom and civil liberty, we are quite willing to leave to the judgment of that posterity which will only remember J. Neely Johnson as a pebble which once lay in the way of California's progress; a name rescued from oblivion only by the accident of its being written on the pages which record great events, and destined to a fame of which he has no reason to be proud. The slur against the president of the executive committee can be easily refuted, and the falsehood fixed on the governor as readily as in the case of his misrepresentations of the conduct of General Wool, Colonel Zabriskie, and General Allen."

A candid review of the governor's course from first to last cannot fail to carry with it the conviction of his unfitness for the emergency, of his weakness as a ruler, his duplicity as a politician, and his dishonesty as a man. He first tacitly sanctions the action of the Vigilance Committee by counselling with them as to the best course for removing the unhanged villains, and advising the sheriff to yield them up Casey and Cora; then, at the instigation of blood-thirsty advisers he exhausts his puny efforts to deluge the streets of San Francisco in the blood of her best citizens. His proclamation was ill-advised, illegal, and filled with false statements. Upon his own commissioners, Zabriskie and Allen, men of spotless reputation, the daughter of one of whom was his wife, he turns his back, and like Peter denies them in the presence of his friends. His statement concerning General Wool that officer flatly contradicts, and his letters to the people were filled with statements tending to misrepresent and falsify both the object and the action of the Vigilance Committee.

"Too cowardly to oppose the Vigilance Committee at its outset," says one journal; "too tyrannical to give it his adhesion when its manifest object was the reëstablishment of popular sovereignty, Governor Johnson has secured the friendship of no good man on either side, and is in full enjoyment of the hearty, unanimous contempt of both."

Two years later, under a new governor, the complaint is continued. Commenting on the message of Governor Weller in June 1859, one writes over the signature "Censor," first quoting from the message:

"'It is made my duty, by the constitution, to see that the law is faithfully executed. I deeply regret to say, that during the past year I have, in several instances, been compelled to know that it was shamefully violated. Since the adjournment of the last legislature I have learned through the public press, not a single case having been reported to me officially, that some seven or eight persons, in different sections of the state, have been executed in violation of the law. It was hoped that the feverish excitement produced by the loose manner in which the criminal laws were administered some years since, had passed away, and that Californians had become a law-abiding people.' When, where, and of whom does the governor learn of 'feverish excitement produced by the loose manner in which the criminal laws were administered'? I have seen none, except those who feared just punishment. The most cool and deliberate transactions I have witnessed in the state are those where the solid men of the country have performed the duties neglected by the officers of the criminal law. The sober, discreet, industrious citizens of California are law-abiding people when the laws are honestly administered by those whose duty it is to administer them properly. But if they fail to do their duty, the sober, second-thought portion of the community themselves coolly, deliberately, and dispassionately administer the laws regardless of the whimperings of those delinquent officers and their satellites, and stand ready, at all times, to face the consequences in this world, and at a proper time in the spirit world. 'Now that these abuses have been corrected,' continues the governor, 'we had a right to expect that the law would be allowed to take its course, and no one executed until his guilt was fully established in the judicial tribunals. There can be no security for either person or property where such outrages are tolerated.'

"From where and from whom does his excellency derive information that these abuses, the loose administration of criminal laws, have been corrected in all the districts in the state? It is true the desired corrections have taken place in the city and county of San Francisco and in some other localities; but it is not true that they have been corrected throughout the state, and the people of special localities are the best judges of that fact. Persons at remote distances, however learned and skilful, cannot be the best judges; and to evidence that assertion I need only refer to the two deceptions con-

fessed by Governor Weller to obtain unmerited clemency under the pardoning power. Unfortunately for the state and his excellency, it is the profligate and vile who most frequently seek his ear, and hence the necessity of greater caution in giving credence to the information volunteered. Where does Governor Weller obtain his evidence that there can be no security for either person or property where such outrages as popular hanging are tolerated? Where in California are persons and property more secure than in the city and county of San Francisco, and where have there been more capital punishments executed by the people, and justly too? Can it be possible that his excellency stands in fear of bodily harm at the hands of the people of this state? Is he a travelling arsenal like the scoundrels whom the people have hanged in consequence of such fears? 'The governor is powerless,' he says further, 'when the county officers, courts, and juries, neglect or refuse to discharge their duties.' Here is a truth as manifest as any truth ever uttered by any one of the apostles. The governor is powerless, but the people are not, as has been shown in numerous instances. 'It is true that these acts were perpetrated by a few excited and reckless men; but it is clearly the duty of all good citizens to aid in bringing them to justice.' Here is a downright, barefaced falsehood. It is not true that these acts were perpetrated by a few excited and reckless men. The men who performed these lamentably painful duties did not perform them as a pastime: they were actuated by the first law of nature, self-protection. 'The frequent recurrence of these executions, and the total failure of courts or juries to prosecute, is calculated to retard the settlement of the state, and turn the tide of immigration in a different direction. Men will not like to bring their families into a community where their lives and property are at the mercy of an infuriated populace.'

"Are either of these sentiments true, understood as intended by the governor? Take, for example, the city and county of San Francisco. There is no locality in the state where so many desperadoes have been hanged by the populace as there, and the streets are thronged with mothers and children, and there is not a vacant tenement in the city. Theories must always give way to stubborn facts. Where is this infuriated populace of which his excellency seems to have such a holy horror? I have spent much more time in the state than he has, and have failed to discover it. 'When bad men unite to take the law into their own hands, to avenge their wrongs, whether real or imaginary, good citizens must combine to bring them to punishment, or else there is an end to all government.' When and where have bad men united to take the law into their own hands to avenge their wrongs, real or imaginary? Bad men have united to take the law into their own hands through frauds at the ballot-box, for the purpose of escaping merited punishment; and good men have combined to avenge the wrongs perpetrated by these bad men and their co-workers, and have performed their duty most effectually, in many instances to the great benefit of the state. Men who prowl about the country living on black-mail and free-lunch stealings, armed to the teeth ready to blow the top of the head off, or cut the heart out of any man who will not do their vile biddings, had best take warning, lest their turn should come on too short a notice for available repentance. It is only on extraordinary occasions that they have in their possession the weapons of murder, while bad men are walking arsenals."

Weller succeeds Johnson as governor. Weller is more of a man than Johnson, yet Weller's sown dragon's teeth fail to produce him anti-vigilant soldiers. Weller is thoroughly law and order; he is obliged to be so or his party would discard him very quickly; and as politics is his vocation, surely he may labor in it. His *pronunciamientos* against vigilance are harmless, but he never misses an opportunity of uttering them. Like Napoleon, Weller despised ideologists. Ideas demand of every why a wherefore, and Weller could not bear to have his logic questioned. Conservatism hates ideas, and so do law and order. The *élite* of scoundrelism had gathered in California, and in the garb of well dressed politicians it flourished on the streets of San Francisco, until disarmed by the death of trickery. It sounds harsh, but it is true, that the law and order party of this time, and for three years previous, was an organization for the promotion of murder, a society for the suppression of virtue.

Law was their inexorable necessity, and their reasoning was as the logic of Clytemnestra when she pleaded with her son Orestes, who was about to slay her for the murder of his father, the great Agamemnon. "Fate," she cried, "compelled me to the crime." "And fate," replied Orestes, "now ordains your death."

CHAPTER XXXV.

THE EXPATRIATED.

'Twas for the good of my country that I should be abroad.
Farquhar.

The act of expatriation, as I have before remarked, was not after all so very cruel. It amounted in most cases to a free passage for some devotee of the derringer, election bludgeon-brandisher, or other social vulture, who having terminated his career in California, having wrought all the mischief possible here, now sought another clime where, being unknown to the police, he might begin anew. Travel being prescribed, and the noxious individual being out of money, as those who live upon the public usually are, he was duly provided for and escorted to the vessel by the Committee. So that a verdict like the following: "Mr Cunningham, you have been found guilty of passing altered coin and of robbing the dead. Your sentence is that you leave this state never to return under penalty of death," signifies to Mr Cunningham that his passage hence will be paid, but stipulates that he must not return. But why should Mr Cunningham wish to return? Can he not do better in a country where the dead have not yet been robbed?

Thousands of honest men in those days would have gladly availed themselves of such an offer; but honest men must pay their own fare when they travel.

In the following manner application was made for leave of absence by the expatriated:

"San Francisco, 5th July, 1856.

"*To the Executive Committee of the Committee of Vigilance:—*

"Gentlemen: Being desirous of leaving to-day by the steamer for Panama, I would request your permission so to do.

"I am y'r ob't sv't,

His
"Lewis × Mahoney.
Mark.

"Witness, R. B. Wallace."

By the Panamá steamer *John L. Stephens*, sailing the 5th of July, were shipped by the Committee, after full investigation and decision, six more of their prisoners, notorious in the annals of crime, J. R. Maloney, Dan Aldrich, T. B. Cunningham, A. Purple, L. Mahoney, and T. Mulloy. All expressed themselves as satisfied with the justness of their sentence. Without stir or display they were taken from the rooms about three o'clock in the afternoon, placed on board the steamer, and closely attended until the vessel was under way, when the guard returned in small boats, as we have seen.

Some of the prisoners wrote the Committee occasionally, making known their wishes in that way. Mr Cunningham was a frequent correspondent. I give a sample of his letter-writing:

"Vigilance Committee Rooms, Sunday, 3 o'clock, p. m.

"*Executive Committee:—*

"Gentlemen: I hope you will excuse my forwardness in addressing you so often. I can assure you that, situated as I am at present and under the existing circumstances, life is a burden to me. For the sake of God and my helpless family will you not grant me the time which I so earnestly desire of you? If not, I hope you will take such prompt action as to alleviate my sufferings by sending me away out of the country. I would much like it, as confinement does not agree with me, and if I have to remain here much longer perhaps God would save you the trouble of my company. I trust therefore you will grant one or the other of my requests as speedily as your honorable body may deem expedient, and your petitioner will forever pray.

"I remain yours, etc.

"Thos. B. Cunningham."

Another thus writes:

"SATURDAY, July 19, 1856.

"*To the Gentlemen of the Executive Committee of Vigilance:*—

"The time having almost expired allotted me to depart from this my adopted home, I make this my first and last appeal to your mercy and clemency. Gentlemen, I place too much trust in your magnanimity to think you would injure me in any way but by my removal. My home has cost me over two thousand dollars, which I cannot dispose of unless at a very great sacrifice. Gentlemen, if you have any doubts of my statement, call at my house and satisfy yourselves. If you will but consider, gentlemen, I was kept prisoner four days, and only from Wednesday to settle my affairs. Gentlemen, I pray you more time or an opportunity to vindicate myself through gentlemen such as E. Smith of the Mercantile Hotel, Capt. A. F. Scott, Lieut.-Col. Ellis, G. Gilman.

"Yours, obediently,

"JOHN COONEY."

At the meeting of Sunday the 20th of July it was ordered, "That McLean shall leave in the steamer of to-morrow for Panamá and that his passage be paid by this Committee on condition that the same be refunded from the proceeds of his property, by Mr Baker, who is authorized to settle the same. Also, that the said McLean shall sign a confession of his guilt, and the appeal for permission to leave this state, with a pledge never to return." William F. McLean, Jim Burke *alias* Activity, Abram Craft, and Jim White departed by this steamer, again leaving the cells empty, save those of Brace, Terry, and Green.

The 27th of August at a meeting of the executive committee a motion was made and carried that I. S. Musgrove, late supervisor of the county, be notified through the daily papers that the privilege was given him of leaving the state on or before the 20th of September, never to return, failing in which he subjected himself to the usual penalty.

John Stephens having assaulted Edward D. Jones, a member of the Committee of Vigilance and a messenger of the 23d Company, for his acts as member of the Committee, on the 28th of August it was resolved by the executive committee that he be ban-

ished from the state, and that he leave on or before the 5th of September, never to return.

Out into the world, back to those who sent them, hence these evil-omened parasites were driven, and joyously many of them went, joyous that no worse fate had befallen them. In various ways they demonstrated their appreciation of the blessings of liberty. Not unfrequently passengers by the steamers that carried them missed money or articles of clothing. Some, like Billy Mulligan, watched the hotels of New York or New Orleans, and exercised themselves in letting fly from the shoulder their fists on any luckless Californian they happened to find who had not law and order written on his lineaments. Burke and White narrowly escaped meeting a watery grave at the hands of the incensed passengers of the *Illinois* for having stolen three hundred and sixty-four dollars from a Mrs Herman. Purple stole twenty dollars from one of the passengers. Aldrich swore he would go back; but he seemed to be in no haste to do so.

The 24th of July the vigilant police informed the Executive that Edward Bulger, a prisoner shipped by the Committee to Honolulu, by the bark *Yankee*, had returned by the same vessel. An order was issued, and the man was arrested.

This was the only instance where an exile returned during the active operations of the Committee. It was the custom to allow those sentenced to banishment to select their own place of exile. Mr Bulger thought the balmy air of the Hawaiian Isles conducive to a life of retirement upon hard-earned laurels, and so it was, and would have pleased him well had the people at large anything to steal; but after he had taken a look at the country he concluded to return and risk a hanging. Such was his answer to the Executive when arraigned before them for a disobedience the penalty of which was death.

Bulger did not seem to realize his position. The Committee were not accustomed to say what they

did not mean; they were not the men to promise and not perform. They sought the death of none. They regretted that any one against whom the death edict had gone forth should have the hardihood to return and place his own neck in the halter. But were it a son who disobeyed he should die for it; and they wondered at this man's temerity, his indifference to the awful fate awaiting him, for they saw no means of escape for him.

"Are you aware that the sentence of death is hanging over you by reason of your return?" asked the president of Bulger when brought for examination before the Executive.

"No," was the reply.

"Were you not told when sent away that if you returned your life would be forfeit?"

"No."

"What!" exclaimed the president, who could but regard the statement as false, "were you never notified of your sentence of banishment?"

"Never; I was merely tried and sent away."

"We will look into the matter," said the president. "For your sake I hope what you say is true; if not your life is surely forfeit."

It was the custom of the Committee to frame the sentences of banishment; and it was then made the duty of one of the members to go around to the cells and read them to those so sentenced. Bulger was now put on trial for his life. Half a dozen members of the Committee were examined. Finally the member appointed to notify this prisoner of his sentence was found and called upon to testify. The member said that although he did not recollect this particular case he had undoubtedly followed the rule. Bulger was now keenly alive to the perils of his position, and his dull wits began to work. His chances for a green old age began to look very dark. Greatly excited he turned to the testifying member and said:

"Do you not remember that when you came to my

cell I asked you to read to me a letter which I had just received from my mother, the contents of which so affected me that I wept like a child? You went away from my cell without reading me any sentence whatever."

Bringing his fist down upon the table with a ponderous oath the member exclaimed, "You are right! I now remember the incident perfectly well. Gentlemen," said he, turning to the Committee, "I await your censure; and in common with all of you rejoice in this man's almost miraculous deliverance." Bulger was sentenced, as before, to leave the state, never to return, under pain of death. He departed gladly, and with the decree of the Committee so graven on his mind as to keep it in vivid remembrance to his dying day. In these proceedings the delegates concurred.

The steamer *Sonora*, which sailed from San Francisco the 5th of August, relieved the Committee of Mike Brannigan, H. F. Foy, Edward Bulger, and John Cooney, while the *Sierra Nevada*, sailing the same day, carried away Chris Lilly.

After the Committee had retired its efficient force, several returned though none were ever taken. Martin Gallagher returned from Honolulu by way of Puget Sound in the bark *Glencoe*, arriving at San Francisco Bay the 5th of October 1856. Under the assumed name of Wilson Hunt he had shipped for Puget Sound, and thence worked his passage to San Francisco. Immediately on coming to anchor he slipped on shore and disappeared. The Vigilance Committee were soon on his track, but Martin eluded them and finally escaped with a newly married wife by the *John Stuart*. Indeed it was Martin's love that had brought him back at the imminent risk of his neck. The devoted woman who was to become his wife offered to follow him into exile, but he informed her that he should not remain at the Islands, but would call for her and take her away. The wife and two children of Bill Lewis accompanied Gallagher to Callao, where the ex-

patriated husband and father awaited them. Surely love knows neither station nor behavior.

Gallagher was a night-watchman in the custom-house at the time of his arrest by the Committee. He was tried by the Executive, and convicted of being a disorderly character, a pest to society, and a nuisance. From South America he returned, arriving by the *Golden Age* the 14th of January 1858. Having been in the service of the United States, and the United States judges then sitting in San Francisco being opposed to the action of the Vigilance Committee, Martin thought his chances better in a suit before them than before the courts under the more immediate direction of the people. Hence he soon after proceeded to libel the bark *Yankee*, James Smith master; and notwithstanding it was proved beyond question, that when the tug *Hercules* came alongside after the vessel was out at sea, and the expatriated stepped on board, the captain of the bark asked them distinctly and severally if they wished to go to the Sandwich Islands, and each for himself replied that he did, and although they were treated in every way during the voyage not as criminals but as first-class passengers, yet the kind court gave Martin three thousand dollars.

Regarding this decision the *Bulletin* of the 19th of January 1859 says: "After carefully perusing that paper, over and over again, our first impression becomes more confirmed, that the result is owing to the personal prejudices entertained by the judge." Mr King then goes on in strong language to give his opinion of courts and judges in California at this time, and then continues in a somewhat milder strain: "He has done more than that; he has made a mischievous precedent, which will encourage certain infamous people to institute proceedings against the good citizens of San Francisco, that must necessarily cause annoyance and irritation, and end in the engendering of more bad blood and ill-feeling in

our already disturbed and too much divided community. At this juncture this decision is a public misfortune. Just as the bitterness of the past was fading out, this federal judge transcends his duty to stir up the embers, and again fan the fire into a consuming blaze."

When the case was appealed to the United States circuit court, there appearing no reason from the law and evidence to decide otherwise in the case, the former decision was confirmed. The suit was brought for the recovery of damages for a maritime tort. In the first place no wrong had been committed, and in the second place these judges ignored the fact that at the time of Gallagher's arrest the Vigilance Committee was the government *de facto* of San Francisco, wielding supreme power of life and death over all who entered the Golden Gate. These judges were very quiet then; very deferential to the principle and *personnel* of vigilance. And as they never dared to quite satisfy their bruised pride upon the members of the Committee themselves, this ship-captain should not escape although he had simply obeyed the mandates of the then existing government, which perforce he was obliged to obey. Such is the equity and honesty of law. Afterward Gallagher endeavored to sell his judgment to the Committee for two thousand dollars, but they would not purchase; from which circumstance, together with the inquiry as to the state of vigilant forces in case of an emergency, it looked as though the Committee did not intend to pay it.

Charles P. Duane, sometimes called Dutch Charley, as we have seen, was arrested and brought to garrison the 1st of June. Two days afterward he was sentenced to transportation, which was carried into effect by placing him, in company with Mr William Mulligan and Mr Woolly Kearny, on board the *Golden Age* the 5th of June, Martin Gallagher, Billy Carr, and Edward Bulger being shipped at the same time by the bark *Yankee* for the Hawaiian Islands.

Hints had been thrown out to Duane that he would do well to leave the city, but he paid no attention to them, swearing that no twelve men under the canopy of heaven should take him alive. Empty as space are the oaths of the bully. He always carried a dose of poison on his person to cheat the hangman with, he said, though there never was the slightest danger of his taking it, nor would any good man have mourned had he done so.

Arrived at Acapulco, Duane made his escape from the steamer, and there remained some eleven days, until the *John L. Stephens* from Panamá, bound up, entered the port. On his way down he had expressed his determination to return at any hazard. It was here the *Stephens'* officers and passengers first learned of the new social regeneration then transpiring in San Francisco, of the doings of the Committee and the names of the expatriated. Presently Charley came on board, and was at once the centre of a curious group. He said he had been unjustly treated and wished to return. The captain, however, would not permit him to take passage. Charley then disappeared. When the steamer was ready to sail search was instituted, and as he was nowhere to be found it was thought he must have gone ashore.

Such was by no means Charley's intention. When the steamer was fairly at sea, the purser, who had gone to the barber's shop to be shaved, entered his room, and there much to his surprise found Charley comfortably seated in his chair. He immediately informed the captain, who ordered that Duane should be treated as a stowaway and put ashore or transferred to some other vessel at the first opportunity.

"Captain," begged Duane, "let me go back. I will pay my fare; I will give myself up to the Committee immediately on landing; let them do with me as they please, I cannot go elsewhere and hold up my head."

"But they will hang you higher than Haman," replied the captain.

"Captain," exclaimed the evil-doer, "I would rather die in California without touching ground with my feet than live a prince in any other country!"

It was all, however, of no avail. Captain Pearson knew that this offender had been shipped from San Francisco for a good purpose, and he would not interfere with the city's purgation. Off the gulf of California the steamer *Sonora* hove in sight bound down, and the captain ordered Charley transferred. On looking for him, however, he was missing.

"I will have him out of here if it takes me a fortnight," exclaimed the captain. After searching some time, this so devoted lover of California was found snugly stowed under one of the quarter-boats. Here again Duane threatened, knife in hand, any who offered to touch him. But he was brought out and put on board the downward-bound steamer. From Panamá he was taken to New York. The companions of Duane shipped by the Committee made no effort to leave the steamer at Acapulco with him.

However sinful, the fraternity found friends wherever they went. We have seen that Charley offered to pay his fare to San Francisco. Now Charley had no money. Money is not necessary to some people in travelling. Why should one whose profession it was to prey on his fellows require money in mingling with them? Was not the world his oyster? In this instance Charley found several good friends, some of them high in power, with kind hearts and of no small influence, ready with the money to pay his fare, and even insisting insinuatingly that the captain should take it; after which we are not greatly surprised to find Charley befriended by others.

Dr J. D. B. Stillman, from whose dictation I quote, was surgeon of the *Stephens* at the time. "He was a bully and a high-cockalorum on board the ship," says the doctor. "If he wanted wine or anything else he got it; they gave him whatever he asked for because they did not dare to refuse him. A high

official, one of the passengers on board our steamer, advised Duane not to leave the ship unless they used force to put him off, and if they did then to go. The official was in high dudgeon, considering that an outrage had been committed on the high seas, for which the officers of the ship and the company ought to be made responsible and punished. That was all that saved Duane's life. If he had come back at that time, at the height of the excitement about Terry, he would have swung before sundown."

At Panamá Duane created so much disturbance that the authorities requested him to depart, but he declined, and claimed protection from the United States consul. In New York, becoming tired of life, he took laudanum to kill himself withal; but unfortunately he overdid it.

Charley returned to San Francisco in 1860, still breathing vengeance. He seemed to be as much incensed against Pearson as against the Committee; at all events he regarded his chances for money better in that quarter, for he immediately brought suit in the United States District Court, and obtained judgment for four thousand dollars. The supreme court, however, reversed the decision, and the four thousand dollars was cut down to fifty.

The trial lasted a long time. Says the *Bulletin* in speaking of it the 3d of December, 1865: "Duane is in luck. Exile furnished him a fine capital to draw on ever since. It gave him a standing claim on sympathizing friends who suffered with him, and some who escaped his punishment; on democratic legislatures, and generous boards of supervisors. Last of all comes a handsome *douceur* of four thousand dollars; but we suspect the case is not ended. It will doubtless be appealed, and if justice is not as deaf as she is said to be blind, it may take some time yet for him to see the color of that four thousand dollars damages for being saved from hanging."

Duane likewise filed libels against the steam-tug

Hercules, Goodall master, and the steamer *Golden Age*, Captain Watkins, which were compromised. The aggregate damages in all these suits claimed by him amounted to one hundred and twenty-five thousand dollars. With the judges usually against them, these suits were extremely annoying to the Committee.

Billy Carr was once a printer in New York city. Coming to California he became gentleman politician, was arrested six times for assault and battery, and once for murder, and was once judge of a first-ward election. It took him five days to count the votes and arrange the returns to suit him, which work was performed, contrary to law, with closed doors. In election fights he was very quick. He was arrested twice at the Sandwich Islands for assault and battery, and once for being drunk.

The end of Lilly comes to us in a letter from Panamá: "Lilly having been expelled by the Vigilance Committee in 1856, went to Nicaragua, where he traded and gambled by turns, and finally fitted out a little schooner, which he loaded with coffee at Puntarenas de Costa Rica, to sell to Walker. The filibuster chief bought a portion of his coffee, and taking in some cocoa, Lilly cleared for Manzanillo, in Mexico. Getting disabled, he put into Realejo, where he found Knote with two vessels. Knote advised Lilly to go to La Union to repair, and took him in tow. On his arrival there he took him and his companion, Yates, on board his own vessel, and put them in irons under a charge of being filibusters. He confiscated to his own personal use the coffee and cocoa, and took away from Lilly some fifteen hundred dollars in money, a splendid diamond brooch, and other jewelry. After several days Knote ordered a file of marines into the hold of the vessel, and, while the two men were confined in chains, had them shot. Lilly died immediately, but Yates, in his agony, dashed out the brains of his dead companion with his irons. Knote then went out of

the harbor under the pretence of getting water, and threw the bodies into the sea. Of course it is right that reparation should be demanded for this horrible outrage. But isn't it a little strange that one of our national vessels should be ordered away from a port where, two years ago, seventeen, and God only knows how many more, honest Americans were just as brutally murdered by the New Granadan police, to seek reparation for the murder of a man who was notoriously a bad citizen, and who, it may prove, was engaged in filibustering against the honor and interests of his country?"

Of Lewis Mahoney, exiled by the people of Contra Costa County, in the summer of 1856, we have bad accounts. He returned, was arrested, imprisoned at San José, escaped, and afterwards appeared at Oakland, where he committed a robbery, and was finally caught and imprisoned. He was captured one morning, about sunrise, at the house of a Frenchman, called French Jim, between San Leandro and San Antonio, in Alameda County.

"It appears that Mahoney had sold French Jim a horse the week previous," writes one, "and that morning went to get the balance of the money. He was mounted on a fine gray horse, and had a splendid Spanish saddle, worth seventy-five dollars, which he had stolen from Estudillo. French Jim, who in the mean while had learned with whom he was dealing, arrested the thief and conveyed him to San Leandro. He was put on the stage for the purpose of taking him back to San José, from the jail of which city he had escaped; but in the mean while the robbery of the Spanish saddle became known, and he was retained for trial at San Leandro on that charge. Mahoney has been figuring rather largely in the papers lately, on account of the robbery of the Boston House, in Oakland, of three hundred and sixty dollars. He applied for lodging there one Saturday night, and was taken in; but in the morning he was missing, and the money with him.

Nothing more was heard of him till French Jim, to whom be the credit, arrested him, as above stated. Mahoney also figured some months ago in San Mateo, where he was arrested before being taken to San José. It will be at once seen that he is an active and audacious rascal, and well deserving the utmost severity of the law. When Mahoney broke from the jail at San José, on the night of the 3d of September, two other prisoners, named John Norton and John Cain, escaped with him. It is believed that Cain was shot by the deputy-sheriff who was in pursuit, but was rescued by his friends. The sheriff of Santa Clara County has been out for some time with a posse in search of the fugitives and their harborers."

On the authority of the *Alta*, "Michael Brannigan, one of those expatriated by the Vigilance Committee, left New York on the *Texas* on the 24th of September last, and, loudly protesting his innocence and threatening all sorts of horrible feats, announced his intention of returning to California and sacrificing himself. He was escorted to the wharf by Mulligan, Duane, and Crow. The first few days at sea he kept quiet, but after that launched out in a tide of drunkenness and blackguardism. On the river boat he was intoxicated, and exposing his person indecently in the cabin he was expelled by the passengers. Shortly afterward he disputed with a negro about a dollar, when one of the passengers interfered and pummelled Mr Brannigan severely. The captain then had him tied on the lower deck. At Virgin Bay one of the soldiers whipped him also, and it was hard to tell what color his face had been the morning previous. Captain Blethen, of the *Sierra Nevada*, refused to allow him to proceed to this port."

But Mike was not to be thus put down. A reporter at the Stockton state fair, on the 28th of September 1857, thus writes: "Mike Brannigan, the Vigilance Committee exiled hackman, arrived here a day or two since, from Sacramento, bringing over a

fine carriage which he intended to run during the fair, and thereby make a pretty penny. Mike's plan was not a bad one, as there doubtless will be more demand for coaches than the limited home supply of a small place like this can answer. But, unfortunately for him, while loitering about waiting for the work to begin, he assuaged his thirst too often upon bad whiskey, which tended to inflame his passions. Having nothing or nobody else to find fault with, he just cavorted around loose, and pitched into the Vigilance Committee. 'This is a law and order town,' said Mike, 'and a gentleman can here have satisfaction out of the cowardly vigilants.' Presently Mike got too noisy; so he was pounced upon by a constable and marched off to the calaboose, and this in spite of his pertinacious declaration that he was a law and order man, and that he always thought that Stockton was a law and order town! Next morning Mike was arraigned before a squire, on a charge of being noisy and disorderly. He denied being guilty, and claimed a jury trial. A jury was summoned composed of simon-pure law and order men, who patiently heard the evidence, and found that Mike was guilty! He was sentenced to pay a fine of thirty dollars, and to ten days imprisonment; and now lies in durance vile, which will continue for six days. I fear he will be at least a day after the fair with his coach."

Mr Billy Mulligan carried with him to New York all his wrongs carefully wrapped in his bosom. Associating there with rowdies of his own class, he amused himself by watching the arrival of vigilants at the hotels and assaulting them.

"You are the man, are you, who helped to drive me out of California?" he exclaimed to Hiram N. Webb as that gentleman, on the evening of the 21st of June 1858, was standing in the bar-room of the Metropolitan Hotel. With these words, Mulligan dealt Webb a blow which rendered him almost senseless.

Mulligan was protected by his friends. Arrested next day, he underwent the form of trial, and was discharged. This is but one trifling example of what travelling vigilants were subjected to for years after the crusade had closed.

Billy found plenty to do in New York. During these years we find him often before the police and other courts. He had a quarrel with John Morrissey, the famous pugilist, in January 1860, which resulted in the very non-professional way of settling difficulties, pleading before a justice of the peace. Out on bail, he was again arrested before the next morning. And so on.

The New York *Express* in an obituary of the arch-villain says:

"The death of Billy Mulligan creates considerable excitement in this city, where he was well and unfavorably known as a pugilist of the lowest character, no regular prize-fighter even, caring to associate with him, as he always found means to escape from a regular prize-fight. He was a cooper by trade, but eschewing that honorable calling for the pleasures of the gambling-house, he, at an early date in the history of California, emigrated to that state, where he spent much of his life of dissipation, and becoming mixed up with the Broderick will case, was, in 1856, invited by the Vigilance Committee to leave. Returning hither he continued his career as a blackleg, and one night shot officer Oliver, of the fifteenth precinct, at No. 626 Broadway, while in the discharge of his duty. Billy was tried for this before Judge Gould, and on the 20th of December 1860 sent to Sing Sing for four years and six months, J. T. Brady and Richard Busteed appearing for him. While under sentence at the Tombs he married Mary A. Lewis, a keeper of a house of prostitution in Houston street, whom he afterwards deserted. The supreme court admitted Billy to bail, pending a new trial. He then aided in raising the Empire City Regiment for the war, but was not permitted to leave the city as its lieutenant-colonel. Grieved at this, he left for the shores of the Pacific, where he met with his untimely end."

Mulligan came from Ireland to New York at an early age, and thence to California in 1850. He was a prince among the political roughs of the day, a man of great authority in his party. No aspirant for office was too proud to do him reverence. In almost every nominating convention he had a seat, and was more than ordinarily conspicuous and influential in that famous body which sold state and municipal elections

at such large prices, receiving twenty-eight thousand dollars for that of mayor alone.

The last day of January 1864 saw Billy back in San Francisco. He was warmly received; indeed so warmly that he narrowly escaped hanging. Eight years was a long time for so faithful a devotee of the dram-shops to be away, and yet the curb-stones on Montgomery street seemed not to have forgotten him. Some thought that news of Duane's success with Hoffman and McAllister brought Billy back, but it was not so. Mr Mulligan was not mercenary. He was a philosophic villain. As long as his meal-barrel and brandy-bottle were not empty he cared little for the rest. Thus Billy basked in the sunlight of his New York and San Francisco fame, dressing elegantly, and eating of the best while in San Francisco at the St Francis Hotel, fronting the upper Clay-street corner of the plaza, until midsummer of the year following.

Billy's disposition was like a wayside pool, which when undisturbed smilingly glistens in the sunlight, but stirred it becomes thick with muddy wrath. The death of this man was strange—stranger than his life. For some time previous to the 7th of July 1865, on the afternoon of which day he met his end, he had been troubled with delirium tremens, and lived in constant dread of the Vigilance Committee, lest they should come and take him. So oppressed was he by this idea that the night of the 6th he could not sleep in his bed, but gave himself up to the police for protection. He was locked in a cell for the night, and in the morning, appearing calm, he was set at liberty. Thence he proceeded to the St Francis Hotel, locked himself in his room, and barricaded the door. About nine o'clock a Chinese launder at work opposite was surprised by a bullet which came crashing in through his window and lodged in the wall in uncomfortable proximity to his head. Investigation proved it to have come from Mulligan's pistol fired from Mulligan's

window. An attempt was made to arrest him, but the officer on approaching his room was warned back. He swore the Vigilance Committee should not take him alive. Strategy was resorted to. An officer on the street sought to attract his attention, while another stood on the balcony close by his window ready to seize him the moment he put his head out. Mulligan saw the man on the balcony, and fired at him, the ball just grazing his head. This proceeding roused Mulligan to frenzy. He came out upon the balcony, pistol in hand, blaspheming incoherently, and walked round from the front to the Clay-street side, where he entered at another open window. It was now thought to try him with his friends, but those who knew him best were least inclined to approach him. Finally one Jack McNabb, an old and familiar companion, undertook to pacify him. Ascending the stairs of the hotel he called to Mulligan in a friendly way, saying he had come for him to take a drink, and like pleasant remarks. Mulligan levelled his pistol at him and warned him not to come near. McNabb continued to approach, at the same time speaking coaxingly to him, until when within a few feet of him Mulligan fired, the ball entering the right breast near the armpit and causing death within half an hour. Poor McNabb! It was a brave act, and for a noble purpose.

The excitement now became intense, and round the hotel the streets were densely packed with people, who like simple sheep thus congregated within range of a madman's weapon. Various expedients were tried to bring him out, but all were unsuccessful. So matters continued until three o'clock in the afternoon, when the officers made another unsuccessful attempt to secure him. As officers were crossing the street on their way back from the hotel, Mulligan appeared at the window and fired at them, but the ball missing them struck a passer-by, one John Hart, foreman of Eureka Hose Company, Number Four, killing him instantly.

The bloody tragedy had now continued long enough, and it was determined to shoot the maniac at sight. Officers were stationed on the street and in rooms opposite the hotel, armed with Minie rifles, for this purpose, but Mulligan for a time kept himself out of view. Shortly before four o'clock he was seen to ascend the stairs to the upper story of the hotel and look out of a window on the Dupont-street side at the crowd beneath. Returning to the head of the stairs he entered a room on the second floor of the Clay-street side, and while opening the swinging window-sash was fired upon by Officer Hopkins from a window opposite, and instantly killed, the ball passing through his brain.

Andrew J. Taylor, popularly known as Natchez, the proprietor of a pistol gallery on Clay street, opposite the plaza, San Francisco, was a noted man in his day, the stormy time of the gold-harvest, from the fact that his services were often required by the fiery population of the city, whose voices, like that of Moloch, were always for war whenever the shadow of a pretext for resort to arms arose. He loaded the pistol with which Cora killed General Richardson, the pistol with which Casey killed James King of William, the pistols used by George Penn Johnson and W. I. Ferguson in the duel which proved fatal to the latter, and, in fact, was the general armorer of belligerent San Franciscans. He kept a fine stock of pistols, guns, and knives, and was looked upon as an expert and sage in all matters pertaining to the use of those implements of death. He was a Mississippian by birth, and though his business brought him in contact with many reckless characters, was not a quarrelsome man, and had many friends. Alas for Natchez! he had been innocently connected with many scenes of blood, and at last fell a victim to one of the fierce little dragons among which he passed his life. A drayman named Travus, accompanied by a friend,

went into his gallery one day, September the 24th, 1858, to look at a pair of derringers he thought of purchasing. While his friend was examining the derringers, Travus picked up a revolver from the showcase and snapped it, having the muzzle carelessly pointed in the direction of Natchez, who stood behind the counter. The revolver, unfortunately, was loaded, and was discharged, the ball striking Natchez in the face and penetrating upwards into his brain. He never spoke after the shot, and died within two minutes.

The career of Bully Boutwell, as the commander of the *Adams* was called after his little bluster at the foot of Sacramento street, was watched with some interest by Californians, who with deep disgust remembered him. The people of San Francisco were not so different in their nature from others as not to feel gratified to know that he was a bad man, that their estimate of him, though made in a heated moment, was not far from correct. I am sorry to say there were some in vigilant ranks glad to hear that B. B. had trouble in Washington, that he played a somewhat disgraceful part in an affair with Lieutenant Rhind, that he was tried by court-martial and dismissed the service, the sentence being afterward mitigated by the president to suspension for five years. I forgot to mention that prior to his departure from this port, the ladies of San Francisco were preparing to present him with a red flannel petticoat and a nightcap in testimony of their estimate of his distinguished services to his country while here, and that they were prevented from doing so only by his hasty departure.

CHAPTER XXXVI.

SUITS AND ANNOYANCES.

Ich bin Satan, antwortet ein zorniges, tiefes
Gebrüll, bin
König der Welt, die oberste Gottheit unsklavischer
Geister,
Die mein Ansehn etwas Erhab'nerem, als den
Geschäften
Himmlischer Sänger bestimmt.

Klopstock.

LITTLE more remains to be said concerning the issues arising from the Grand Tribunal.

Members of the vigilance committees did not always escape the wrath of those they hunted to the death. If we except the harassing prosecutions of the sufferers at the hands of the San Francisco Committee of 1856, there were remarkably few important or successful retaliations. Quite a number, however, more particularly in the regions of Nevada, Idaho, and Montana, sacrificed their lives to their zeal in exterminating crime.

Several attempts were made to prosecute certain members of the Vigilance Committee subsequent to its disbanding; but such attempts were ineffectual, for it soon became evident that serious bloodshed would follow prosecution by the United States of any of those who had risked their lives for the general good. The executive committee met frequently during the year following the great purgation, and gave those who were arrested every protection, and eight thousand citizens whose sense of justice, whose lives, and the welfare of their families were dearer to them than even obedience to law, stood ready to answer

the summons of the vigilance bell at a moment's warning.

By the steamer of the 20th of August 1856, Mr William T. Coleman sailed for the east, laden with the heart-felt gratitude of all good citizens. After the steamer had sailed it was reported that two assassins sworn to kill him had come down from Mokelumne Hill, and had taken passage by the same vessel. The second day of the sailing of the steamer, a man supposed to be one of the conspirators, was arrested by the vigilant guards and placed in confinement.

Under the caption *Damnum absque injuria,* one writes the 19th of November 1856:

"The annoyance to which members of the late Vigilance Committee are subjected by the murderers, thieves, and ballot-box stuffing individuals whom they were so lenient as to banish from our midst, is at this time exciting no little feeling of indignation among our citizens. A great many were at first disposed to make light of the matter, and to think that nothing would result from such flimsy suits as have been brought by those disgraceful characters. But now, when they are informed that some of the shrewdest lawyers in New York have so far prostituted their talents, reputation, and profession, as to undertake the cause of these villains, some of whom must be known to their counsel to be pardoned state-prison convicts, not for the justice of their cause, but for the black-mail they may be able to levy on parties visiting New York, who would rather pay a few hundred dollars than be subjected to legal delays, annoyances, and uncertainties, our citizens are beginning to feel justly indignant, and to believe that a vigilance committee is as essential for the purification of New York as it was for this city. The parties engaged in thus hampering our merchants and black-mailing our citizens visiting the east, have not the pecuniary interest of their villainous clients in view at all. They use them only as the instruments to fill their own coffers, to enable them to live luxuriously and fare sumptuously at the expense of our citizens. In all probability these very parties at this time are advancing a monthly stipend to the hardened scoundrels, their clients, sufficient to gratify their licentious appetites, so as to keep them on hand to be used for their vile purposes."

During the winter of 1856–7 Mr Truett visited the east. While there he made no effort at concealment, but transacted his business in New York and elsewhere openly, and as usual. Nor was he molested in any way until on the 6th of February, when, after having boarded the steamer *Illinois* for the purpose of

returning to California, he was arrested at the instance of Maloney and Mulligan, and required to give bail in the sum of forty-five thousand dollars. The New York *Herald* gave a garbled statement of the affair, affirming that Truett went on board disguised in red whiskers, slouched hat, and coarse dress, that he huddled himself under a berth in great fear, and that he appealed to the crowd for protection; all of which was false.

At one time there were in New York three suits pending against Mr Truett, who was then under bail for about two hundred and eighty thousand dollars. His bondsmen were C. K. Garrison, William Turnbull, and others; and for counsel there were Charles O'Conor, Mr Girard, John Hackett, Barlow, and Laroch, for the defence, and James Brady and others for the prosecution. The cases did not come up for trial immediately after the first arrest; but Mr Truett was allowed eight months in California during the interval. He then returned to New York to defend his own suits and to assist Mr Coleman, who was well nigh overwhelmed by similar charges and claims.

O'Conor's argument was that when a people were dissatisfied with their government they possessed the right to rebel and reorganize, which was very like the line of reasoning advanced by Balie Peyton and Foot in California, and by this same O'Conor subsequently in his defence of Jefferson Davis at Washington. It was the line of argument of the whole southern confederacy, of these very law and order men who as a class were southern and secession; only when it affected them unfavorably they were against it. This, then, makes the Vigilance Committee in principle secessionists, one might say. By no means. First, the Committee were not rebels, were not dissatisfied with the government, and made no attempt to overthrow it; and, secondly, had they done so it would have been because the government was impotent and inadequate, and not because they coveted power. But

not to put too fine a point on it, I hold that the southern states, that the Pacific states, that the Committee of Vigilance, or any portion of any state, confederation, or colony, has the right, if it has the strength, to rebel, to overturn their government and establish a new one, for in such a case might makes right; that is to say, the will of the majority, or the preponderating element of society, rules in all free governments, and the strongest side is supposed to be the will of the majority. But whether it be right or wrong it is true and palpable. It is thus the universe and all things in it are made. Might will prevail. The strongest will rule. And if it be not right, the fault must be charged to the creator, for so he has made everything that is made.

While these exasperating and expensive suits were in progress Maloney died, and with him the suits. There were few the world could better spare. He had brought much trouble upon many good men. Society was the better for his departure. He was a bad man of not the lowest order; for Irish so recently arrived, his father's family was doing pretty well in American politics, better somewhat than at rum-selling or railway-grading. He had two brothers in congress, one from Maine, and one from Illinois, and these were determined to send him back to California as United States store-keeper. That would indeed be a triumph; to appear in San Francisco under the patronage of government while the vigilant death penalty was hanging over him. But it would likewise have involved the Committee in difficulty with the government to have hanged him, which they assuredly would have done; so it was thought best for Mr Truett to go to Washington and defeat him, which he did, and which, as everybody knows, required money.

One hundred thousand dollars was what Mr Maloney wanted from Mr Dows, whom he caught in New York, and not a cent less. It was worth that,

counting feelings, and loss of political and other thieving opportunities. This little bill, presented by the court of common pleas the 21st of March 1859, included assaulting and battering of which there was none, and suffering of which there was some, for in reality Reuben did not know but that he would be hanged in company with Terry, Brace, and Hetherington. The trial came up, Mr Billy Mulligan being conspicuously and obnoxiously present as lobby, court, and counsel. Mr Maloney deserves the thanks of a grateful posterity for dying so soon. Courts are more uncertain than death.

The expenses of these suits were very great; and coming as they did somewhat unexpectedly, and after the heat and burden of the three months' labors, at a time when the reformers had hoped to unharness finally, made them all the harder to bear. But the Committee and the people responded promptly to these demands. There was no hesitancy, no wavering, but as the money was required it was raised, and all obligations met. Let one, the humblest member of the Committee, be touched, and all felt it; to institute court proceedings against one member of the Committee as such was the same as bringing suit against the whole eight thousand.

Mr Coleman was arrested in New York the 18th of September 1856, on complaint of James R. Maloney, who stated in his affidavit that while performing his duty in guarding certain arms, the property of the state of California, he was seized, handcuffed, and finally expelled from the state by an unlawful organization known as the San Francisco Committee of Vigilance, of which William T. Coleman was leader; and this to his great personal and pecuniary damage. As Coleman was reputed rich, the plaintiff begged that he might be held in the sum of one hundred thousand dollars. He was released, however, by the court on giving ten thousand dollars bail. Mr Coleman was subjected to the greatest annoyances while

at the east. Besides orders of arrest and expensive suits, his steps were dogged, and his life repeatedly threatened.

Herewith I give a letter from Mr Coleman in relation to affairs in New York:

"NEW YORK, April 5, 1857.

"*Jas. Dows, T. J. L. Smiley, C. J. Dempster, Hy. M. Hale, Esqs., San Francisco:—*

"DEAR SIRS: The case of J. R. Maloney vs. Jas. Dows was brought on in the court of common pleas in this city on Monday the 21st of March. Notwithstanding all our efforts to stave off that suit, and bring on the case of Mulligan vs. Coleman (as being a better one for us to try first), they succeeded to their satisfaction in getting the case in court, and we succeeded after a hard fight in getting them out of court completely—nonsuited them on the ground of want of jurisdiction in the courts of New York.

"When we entered on the suit, this was one of the grounds we designed taking, but not knowing how it would be entertained or decided by the court, we determined to defend ourselves on every other point, and from the opening to the close we had one of the handsomest hard-fought battles ever occurring in a New York court; our counsel fighting every inch of the way, and every moment securing advantages. They proved Mr Dows a member of the Committee from his own statements, etc., and there was their only glory. But they proved also that the Vigilance Committee was a revolution—an insurrection, and all that, which we wanted. Mr Maloney then got on the stand. We made him prove a great deal that was desirable, including the fact that he was an active member of the Committee of '51, etc. Oh, how he sweated for about two days! He was a lovely customer.

"The testimony for the prosecution through, we began the defence by a motion for nonsuit, relying on two points (as you will see more fully by the printed reports we send you): first, want of jurisdiction in New York; and second, that the Vigilance Committee was a rebellion, an insurrection, a revolution, and therefore no action against its members would hold in a mere civil suit here.

"Between two and three days were spent in arguing these points. One of Mr O'Conor's arguments being over six hours long, and finally the judge ruled in our favor, much to the mortification and rage of the opposite party. They immediately moved for a new trial—refused; then they gave notice for an appeal, and will carry it to the court of appeals. Meantime Mr Maloney says he will push his other suits without delay, and we are ready to meet him.

"Lawyers disagree about the judges' decision, but we think it good law, and that it will hold the world over. We are willing to stand by it and test it further anyway. It is our desire to have it wide-spread and discussed fully before any other cases come up.

"I dropped all other business and attended exclusively to this case for eight days—and nights too. Friend Truett was on hand, and with the many friends that rallied around, we had a pretty strong force, and actually outnumbered the 'roughs' in court, and carried the day by numbers as well as

every other way. We had witnesses from the west, from Philadelphia, Boston, and all over the country, when we could get a valuable one; and were well fortified in that particular as in every other. The expense was large necessarily, but it wouldn't do to be at all parsimonious in a case like this; and as the opposition were moving heaven and earth as far as they could, it became us to be moving also—and we did.

"Our expenses have been heavy. We paid $2,500 additional counsel fees, and a great many smaller sums, which will all appear in due course. Being about out of money, and having little or no chance of raising much here, Truett and myself deemed it best to draw on you at 30 days' sight for $5,000, which we did, and trust you will duly honor. This leaves us a little balance on hand, which will all be wanted, and perhaps soon, as we are by no means out of the fight yet, although we have so much the advantage of them now. Our position is now good here, better than we had reason to expect, and by being on hand with a fair amount of means, and plenty of pluck, we can drive the scoundrels out of New York, and away from any position in which they will be seriously annoying, but it will require considerable work and attention yet, and a judiciously liberal outlay of money; I think $15,000 here, and $10,000 in California, will beat them all to death, as far as suits are concerned, and although that appears like a large sum, yet out of 6,000 people at least 1,000 will contribute, and $25 average each of these will make the sum. If that much can be raised now I'll go $1000 of it individually, if necessary, though I assure you I have spent a great deal for the good of the cause and in defence of these suits and of our friends that will never appear except in its benefits.

"Let me ask of you to meet this draft promptly, to raise all the money you can, and not ask for small amounts. Keep all cases in California from judges, but have juries in all cases. Be of good cheer and it will all come out right and bright.

"With best compliments to all, I remain as ever,

"Truly yours,

"William T. Coleman."

Before an Executive meeting held Saturday afternoon the 15th of November 1856, New York letters as follows were read: one from James Dows, one from Truett and Rogers jointly, and one from William T. Coleman. The communications were addressed to the Executive Committee of Vigilance, and contained particulars of suits begun. Accompanying Mr Coleman's letter was the draft of a bond intended for execution by members of the Committee in San Francisco. The question of signing the bond was discussed, but it was not approved. Each member of the general committee was then assessed five dollars towards a fund

for meeting the expenses incurred by members of the Committee defending suits in New York and elsewhere. Each member of the Executive was then requested to consult his attorney individually regarding these suits.

But while the Committee responded thus promptly to the call of its members attacked by the expatriated in New York, it did not hesitate to enter its protest against unnecessary exposure. "Whereas the obligations of each and every member of the Committee," says a resolution of the Executive passed the 21st of November 1856, "is such as to make it obligatory upon them to protect and indemnify one another from all annoyances arising from being members of the Committee of Vigilance to every reasonable extent; therefore, resolved, that we deem it inexpedient and unjust in any member or members of the executive or general committees to visit the eastern cities while such a state of things exists, relying upon the Committee here to sustain and indemnify them; that no member of the Committee has a right by his voluntary acts to involve the whole Committee in pecuniary loss, and when such is the case all honorary obligation ceases; that the foregoing resolutions are not intended to apply to such parties as left here previous to the news of arrests in the city of New York."

By the steamer of the 20th of December the Committee sent Mr Coleman one thousand dollars to serve to defray in part the expenses incurred by the suits then pending. A month later the Committee wrote Mr Coleman requesting him to hasten the suits against him to an immediate issue. Five hundred dollars was applied to Mr Dows' New York account the 22d of May 1857. The next steamer one thousand dollars was sent to Mr Coleman. The 2d of May 1857 letters were received from Truett and Coleman, stating that the New York suits had been decided in favor of the Committee. These advices were accompanied by a draft of five thousand dollars on H. M. Whitmore, treasurer, negotiated through

Duncan, Sherman, and Company, New York. The draft was promptly accepted; the members marking on paper the amount for which each would become responsible in payment of the draft. At the meeting of May 1, 1857, Mr David announced the necessity of again raising funds for the defence of members of the Committee against whom actions were brought in New York and elsewhere. Accordingly a committee was appointed to devise ways and means.

The San Francisco *Herald* having attained an inglorious end, its editor still keeps biting the file in becoming the champion of the now returning rascals. We have seen him in the Green suit. Subsequently he appears for Duane and others. The *Bulletin* says of him the 13th of August 1860:

"The ex-editor of the *Herald*, John Nugent, is not yet satisfied; he wasted four years of his newspaper life in making war against the great reform government in this city, and had the satisfaction merely of demolishing himself in the contest; the reform went up, and his journal went down. His former political friends and partners having at last found it expedient to pay him to quit the paper, he has carried his energies into another profession; but there he seems to be pursued by his old monomania, hatred of the good citizens of San Francisco; and he spends his time in fanning the flames of discord, and in keeping alive the expiring embers of hatred and malice that unfortunately still, more or less, divide our community. The Green case is familiar to our readers; it terminated a few days ago to the utter discomfiture of Nugent and his virtuous clients, who instead of enjoying a large fortune in the shape of damages for their hard treatment by the Vigilance Committee, have the satisfaction of paying a portion of the heavy costs of their suit. Foiled in that attempt, Mr Nugent has found another client. Charley Duane, the redoubtable Dutch Charley himself, is now the injured individual who puts in a claim for a salve of damages to heal his wounded fortunes. This time, however, the suit is not against our citizens. In order to get the case into the maritime court, where a single judge will be arbiter, and a jury not have the privilege of trying the issue, Duane sues Captain Watkins and Watson his first officer and Captain Pearson, who commanded the steamers that took him off when he was banished by the Vigilance Committee; or who refused to bring him back, against the sentence of the Vigilance Committee, when he desired to come back. Each of these gentlemen is asked to pay the nice little sum of fifty thousand dollars; and Charles Goodall, master of the steam-tug, is sued also for an additional trifle of twenty-five thousand dollars for his share in conveying the departing patriot from the wharf to the steamer, when he was outward bound. Should Charley succeed in getting all he asks he will have quite a snug little fortune of his

own; one hundred and twenty-five thousand dollars is not to be sneezed at; and being made a martyr of will be the best day's work he ever did in his life, which perhaps is not saying much, as he is not accused of ever having been partial to work of any kind.

"But, pleasantry aside, we do think that Nugent might, if he tried hard, find a more reputable and profitable way of employing his professional talents than in bringing vexatious suits, at the instance of notorious vagabonds, to worry decent people. There is no money to be made by keeping up this annoyance, and we cannot understand the manliness of such petty exhibitions of spite. Four or five years should be enough to cool the most obdurate liver. Time, the great comforter, has almost obliterated the wounds that rankled in days past. Why adopt, then, the diabolical calling of thrusting meddlesome fingers into the healing flesh, and tearing apart the old gashes!"

J. P. Manrow was sued by Hennessey at Downieville in September 1858. The case came up for trial in the district court at Sacramento the 9th of June 1859, upon a change of venue, no jury satisfactory to the plaintiff being obtainable at the former place. When called for trial, the plaintiff failing to put in an appearance, the case was dismissed.

From Sacramento one writes the 15th of February 1858:

"Ned McGowan and his gang committed an assault on Mr John Center of San Francisco, last evening at the Forest theatre. It seems a poor fool of an old man, who is called Judge Garland, took a benefit. A number of rowdies bought tickets, and as soon as the judge opened his mouth on the stage, commenced pelting him with rotten eggs, potatoes, cabbages, and other vegetables. They would run him off the stage, then bring him back to again repeat the sport. This fun was kept up till it lost its novelty, when Ned McGowan rose in his seat, and declared that he saw among the audience one of the damned stranglers, a man who had carried a musket for the Vigilance. With this the lights were put out, a rush made for Center, who was knocked down and terribly beaten before he could make his escape. It is well to say here, that before this happened, the more respectable portion of the audience, becoming disgusted at the treatment of Garland, had left the house. So far as I know, no arrests have been made. How long will Ned McGowan and his crowd be allowed to abuse peaceable citizens? Where are the advocates of law and order now? Is a sound heard from them in condemnation of these outrages? In truth, do they not sympathize, aid, and abet in their commission? Is it not the boast of McGowan that he has made money by assaulting the 'damned stranglers,' that his fines are always paid by his friends, and something handsome besides? I am no prophet, but I predict that there will be a rising of the people in the capital of the state, a vigilance committee if you will, that will sweep these scoundrels from the face of the earth, in less than a twelvemonth."

The Sacramento *Bee* of the 1st of February 1858 gives the following:

"We have been told that there is now in Sacramento a young man, who acted as scribe or deputy-secretary, for a time at least, for the San Francisco vigilants. He came up on Saturday morning, and when going to his hotel last evening he was dogged by two men. He went to his room, and soon returned to the street door, and saw the same parties on the sidewalk, one on each side of the doorway. One said, on his approach, 'Here is the damned strangler,' whereupon some four or five others approached, and to save himself the young man retired to his room. The parties remained near the hotel some time, swearing, and threatening vengeance. We have heard of residents of San Francisco, merchants and others, who came here on business, being dogged about the streets after night, and their persons endangered."

At the instigation of Adjutant-general W. C. Kibbe, piqued, it was said, by some vigilant occurrence, a court-martial was convened for the trial of Captain T. D. Johns, of the California Guard. The charge was nominally for disobeying the orders of the governor when called upon to take action against the citizens of San Francisco. Johns commanded one of the volunteer companies, it will be remembered, which did not come out at the governor's call. Like verdigris upon a brass breastplate the stain had rested on California's escutcheons, and Kibbe determined now, after the lapse of two years, to rub it off. After certain necessary military fuss and feathers Johns was honorably discharged. This was in June 1858.

At an Executive meeting composed of twenty members, held the 21st of August 1857, the following resolution was offered and discussed but not passed:

"*Resolved*, by and with the concurrence of the board of delegates, That all existing resolutions of expatriation and penalties are hereby rescinded, to take effect on and after the 3d of September, and that the same be made public by publication."

The matter was laid over for final action to the 5th of September, at which time it was agreed that eighteen votes should be required to carry the resolution; and the question was again postponed. At the meeting of the 13th of September, a petition signed by several

citizens was handed the Executive, recommending that the decree of banishment be rescinded. Finally, after much discussion, the resolution to rescind passed the Executive, twenty ayes to six noes, and the delegates, thirty-three ayes to twenty-two noes.

The *Bulletin*, whose disease, where vigilance matters were concerned, was now chronic, before the publication of the Executive address, namely, in its issue of the 14th of October, deprecated the action of the Executive as usual. In the view it took of the question it stood almost alone, and seemed actuated by petulant opposition rather than by sound common sense. Its arguments are puerile, illogical, and not worth quoting. After the publication of the address, three days later, which I give herewith, it forever held its peace upon the subject.

"*To the Members of the Committee of Vigilance:*—

"GENTLEMEN: Your executive committee deem it proper officially to announce the passage of the following resolution, which has received the sanction of the board of delegates, and is now an act of the Committee of Vigilance: 'Resolved, That by and with the concurrence of the board of delegates, all existing penalties attached to sentences of expatriation are hereby rescinded.'

"However much honest men and patriotic citizens may have differed as to the right and justice of the organization and acts of the Committee of Vigilance, no candid man can deny that a great reform in public morals and political estate has been achieved as a result. Our elections on three occasions have been peaceable, and untainted by fraud; quiet and order reign in our streets; virtue is not openly outraged on the highways; deadly weapons are no longer publicly displayed and defiantly used; liberty of speech and of the press is no longer a misnomer, or the cause of bloodshed; public plunder is now neither practicable, nor the object for which office is sought; a rigid scrutiny into public affairs has been inaugurated, and is consistently maintained by citizens, without let or hindrance; the offices of the city and county have been filled by men of probity, who are the undoubted choice of the electoral majority; ballot-box stuffing and fraudulent election returns are at an end; the people now have confidence that political favoritism will not in future rescue the convicted guilty from the punishment decreed by the laws; the community enjoys a tranquil repose and hopeful prosperity. This state of affairs, contrasted with that which existed when your labors commenced, proclaims the magnitude of the triumphs that have been achieved. We believe that the people, happy and contented under the change, desire that every cause of future excitement and possible anarchy should be removed.

The highest duty and aim of the Committee of Vigilance is to establish the rights and promote the welfare and tranquillity of the community which confided its interests to the charge of that body. To execute any one of the expatriated who might have the temerity to return would, under the changed and existing state of affairs, interrupt the present peace and quiet of our city, without bringing adequate advantage. The necessity for such a course of public excitement no longer exists. The return of a worthless individual, and the execution of the death penalty upon him, should not weigh in the scale with the peace and happiness of our citizens. On the other hand, not to carry out the extreme penalty on a returned criminal, during its existence as a sentence, would stultify the Committee, and is a remedy at which the stern and resolute character of its members would revolt. Either contingency is too serious to hazard, on the chance of the non-return of one of the exiled. Banished for the public good, their presence in times past having been the signal for disorder or the cause of frauds upon the rights of the people—rendered powerless as they now are, we but reassert our strength and confidence in the support of public opinion, by the present act. Determined as the people are to protect their rights, no fear need be entertained that the former scenes of iniquity, violence, and official corruption will ever be reënacted in San Francisco.

"The resolution now adopted is not so much an act of clemency to the guilty as of regard to the interests of the public. Yet the annals of history furnish abundant precedent for the removal of the penalty of banishment upon turbulent and offensive characters, where governments have attained to a position of strength and repose which did not exist at the period of the expatriation. Why, then, should we, who do not claim the dignity or authority of a government, be reluctant to follow the well established precedent of stronger and more exalted powers, when the necessity for maintaining the penalty no longer exists? It will be seen by the tenor of the resolution that the sentence of banishment is not revoked; the Committee have no error to retract in their decrees of expatriation; they are simply relieved by their present act from the obligation to inflict the death penalty on returned exiles; the disgrace of banishment still remains upon them. If they return, it will be upon sufferance; they will be subject to the just opprobrium and watchful eye of the public, which will hold them to a strict accountability for their good behavior. It is, however, quite unlikely that they will return; with the removal of the prohibition the desire to be in our midst, particularly under humiliating circumstances, will be dissipated. Other cogent reasons might be adduced for the step that has been taken. The Committee revere the constitution and laws, and would not see them violated when a stern and absolute necessity for justifying an exception to a great principle no longer exists. The present incumbents of office in the city and county have the confidence of the people, as they have had their votes, and it is right and proper that to them alone should be confided the present and future administration of justice. To execute the sentences of the Committee under circumstances so completely the reverse of those which existed at the time when they were imposed, would at once arraign the body against the very government which has its confidence and support, and which is the result of the reform move-

ment. No parallel exists between the present condition of affairs and that which the Committee was organized to overthrow and reform. Then the government in some of its parts was an usurpation. The people, the source of government and law, were conscious that their liberties had been outraged, and that officials who were not elected had been foisted into office by ballot-box stuffing and fraud; the evil was a great and growing one, self-perpetuating, it was unpunished by law and sustained by organized ruffianism, and the emergency admitted of no relief short of a limited exercise of the sacred right of revolution. The contrary to all this now exists. Acts which then were defensible and right because the only remedy, would now be reprehensible in the eyes of all conscientious and reflecting men, and at variance with the principles of the Committee of Vigilance.

"It is a subject for mutual congratulation that the reign of peace and justice has been thus early and firmly established, and that while your ranks are unbroken, and your power to enforce any decree undoubted, you can prove the sincerity of the love you have always professed for the principle and spirit of law by retiring from apparent antagonism thereto on the first opportunity consistent with the general welfare and the preservation of the public peace. The harmony and unity of the Committee is a sufficient guarantee that on any emergency, improbable as it is of occurrence, the members will rally for mutual support and to protect the public welfare. Malicious suits brought against members of your body for acts performed in the direct execution of its decrees, still remain before the courts, and demand your attention. These and other matters of importance properly requiring your coöperation will continue to receive the careful consideration of your executive committee, whose zeal for the protection of the property, reputation, and persons of your members will remain undiminished. On this occasion the executive committee desire to renew to the members of the organization their assurances of gratitude for the faithful and disinterested devotion to the public weal manifested regardless of fatigue and peril. These feelings, we are confident, are shared by those good citizens who did not deem it necessary to become active members of the Committee of Vigilance. Your reward will be found in the proud consciousness of duty well performed, and in the continued happiness, peace, and prosperity of the community who intrusted their dearest interests to your charge.

"*Executive Committee Rooms, San Francisco, October 16, 1857.*

"Published by order of the Executive Committee,

[SEAL] "33, *Secretary.*"

CHAPTER XXXVII.

POLITICS AND VIGILANCE.

L'hypocrisie est un hommage que le vice rend à la vertu.
Rochefoucauld.

If vigilance would have none of politics, so would not politics of vigilance. Every issue possible throughout the state was forced on this local reform. There were many ways in which this could be done, and vigilance be obliged, contrary to its inclinations and avowed purpose, to arise and defend itself. The very stand it took against politics, the very declaration that vigilance was not politics, and that its members, as such, were of no party, arrayed parties against it.

A case in point was the advertising of the governor's proclamation, in itself a wholly unnecessary measure, in its general and wide-spread advertisement an absurdity. The document was taken up by journals opposed to vigilance as their reward of merit, and kept in their columns during the whole time of its continuance in force. These bills in the aggregate, at the high rate charged, and the then impoverished condition of the public treasury, amounted to a considerable sum. The payment of these bills was one issue:

"If elected to the senate," declared Mr Sargent, the 17th of September 1856, then before the voters of Nevada as a candidate for the legislature, "I will oppose the payment of all printing referring to the Vigilance Committee, except as provided for by the following provisions of law, even though the effect is to injure certain democratic innocents, the Nevada *Democrat* among the number, who have been running up a bill of thousands of dollars against the state, in hopes an anti-vigilance legislature will pay the bills. Section first of an act concerning official advertisements, and to provide for their payment, page 84 of the statutes of 1856, reads as follows: 'All advertisements, notices, and proclamations, by the governor and other officers, on behalf of

the state, shall be ordered published by the governor in one newspaper only, and the state shall not be liable to pay for any other publication, and every officer is prohibited paying for such other publication out of any moneys belonging to the state, provided that the governor's proclamation of a reward may by him be ordered published in not to exceed four newspapers, and notices by the treasurer, for the redemption of state warrants or bonds, may be published as now required by law.' In defiance of this law, all the anti-vigilance papers of the state, and some others, have been publishing for months a document purporting to be a proclamation, also orders of generals of militia, and some of them a speech of General V. E. Howard, called a report, making a bill to be paid of forty or fifty thousand dollars, when the legal charge should not be more than three thousand dollars. I shall oppose with all the energies and abilities I may possess, if elected, the drawing of money from the state treasury for this illegal purpose, and defeat the cormorants who are so greedily hovering over the treasury, under the name of inno cent third parties.

"I believe the prevalence of crime in San Francisco, the rule of bullies and ballot-box stuffers, by which the will of the people at the polls was invariably defeated, the prevalence of ruffianism by which forty bodies were picked up in the bay in one month, ostensibly the victims of man-traps, the acquittal of deep-stained murderers in the courts by packed juries, the crowning act of devilism in the assassination of Mr King, called for the intervention of the people in their own defence. That the Vigilance Committee was organized to remedy and did remedy these things, and I approve of their action as wise, politic, and humane, and eminently justifiable by the first law of nature, and of common, civil, and statute law, the law of self-defence. That the history of their course shows that in all cases they awarded a fair trial and full privilege of a hearing to the accused, and made an example of no man not notorious for his criminality, and that the action of the Committee, in its direct results, conduced to the safety and happiness of the city of San Francisco. Believing that the spirit of justice is of more importance to the community than the forms of law, that it is right to oppose tyrants and murderers even to revolution, that when the judicial station is used not to punish but to protect crime, it is the right of the people to protect themselves, I have been found the friend of the Vigilance Committee, and desire no one to misunderstand me in this fact. If elected senator, I shall oppose with whatever power God has given me, the efforts I believe will be made to harass and outlaw the Vigilance Committee, and I will favor an act of oblivion for their benefit, to give complete rest to the people of San Francisco upon the matter."

"Every man nominated for the legislature," says a democratic journal, just before election, "should be pledged formally and unequivocally against the Vigilance Committee. The organization has declared war upon the democratic party, and it is our duty to see that no traitors to the constitution be permitted to be

invested with the sacred character of democratic standard-bearers in the coming fight. Let the convention look to it, both retrospectively and prospectively."

Another issue was the passage of a general amnesty act, that the law might not forever hold its uplifted hand over the heads of the reformers. Says the Nevada *Journal* of the 17th of October: "The people have it in their power at the ballot-box to give peace to the country, and save excitement and expense. They ought not to neglect the golden opportunity. Let the question be propounded to every candidate for a legislative office, Are you or are you not in favor of the passage by the next legislature of an amnesty act for the benefit of the Vigilance Committee? and if his answer is not satisfactory strike his name from the ballot, let him belong to whatever party he may."

At the democratic state convention held at Sacramento about midsummer of 1857, anti-vigilance resolutions were passed, to the great satisfaction of McGowan, Terry, and Herbert, but to the infinite disgust of good democrats throughout the state. The relation of vigilance to law and order, or, as it was now called, of the people's party to the democratic party, one year after the disbandment of the Vigilance Committee, is ably set forth by Mr Zabriskie, himself a stanch democrat, in a speech delivered at Musical Hall the 31st of August 1857. Among other things he said: "It is the settled and determined purpose of the democratic party in this state to put down the Vigilance Committee of San Francisco. They have not the manliness and honesty to announce and meet the issue fairly before the people, but seek to secure, by insidious means and political finesse, all the advantages of the issue without the responsibility. It is known to every citizen of California that during the last canvass no reference whatever was made to the Vigilance Committee. On the contrary the prudent leaders of the party and the masses sought to avoid it

and keep it out of the canvass. No sooner, however, had the members elect assembled at the capital and organized for the discharge of their duties than the vigilance question was presented and discussed, and a resolution passed substantially declaring that the vigilance issue was presented during the canvass just past, and decided against that organization. Thus did grave representatives, after full and free discussion, solemnly declare and record in the legislative archives of the state, a known, positive, and palpable falsehood. No more conclusive and emphatic evidence could be furnished of the determination of the democratic party to avail themselves, individually, of that issue to secure political advantages than the fact presented. Again, during the session of the last democratic state convention, the notorious Herbert offered a resolution the design of which was to denounce the Vigilance Committee and present the issue before the people during the ensuing canvass. That resolution was debated at length and with vehemence. Prominent among those advocating its passage were Mr Hawks and Mr Hoge of your city." During their remarks, particularly those most denunciatory and slanderous, they were loudly and vociferously cheered. Mr Hawks said: "We are called upon as a political party to put down a body of men who have banded themselves together not only as the destroyers of the rights and liberties of a portion of our citizens, but who have banded themselves together in political organizations for the purpose of crushing out the life-blood of the democracy in San Francisco."

After Mr Hawks had concluded his remarks, Mr Hoge delivered himself of the following sentiments; the first portion of his remarks had reference to the action of the gang of rowdies who assailed the ballot-boxes at Washington City: "A blackguard party, rejoicing in the euphonious name of Plug Uglies, within the very portals of government, beneath the very eye of the democratic federal administration, with arms in

their hands, seize upon the polls, where freemen are in the exercise of the dearest privileges of freemen, and the troops of the republic are called out, and at the point of the bayonet the law is enforced and the constitution is maintained." Mr Hoge refers to the incident which occurred at Washington City to prove that the action of the president of the United States is a practical condemnation of the proceedings of the Vigilance Committee. How unfortunate is the reference! The Plug Uglies, a gang of ruffians, seize upon the polls, where freemen are in the exercise of the dearest privileges of freemen; the troops are called out, the law is enforced, the constitution is maintained. A gang of similar scoundrels at San Francisco seize upon the polls, where the freemen are in the exercise of the dearest privileges of freemen. A government exists with abundant authority to enforce the law and maintain the constitution; but unlike the patriotic action of the president of the United States, that authority is not invoked because it is controlled by these very scoundrels and is designed to secure and promote their interests.

Bills were introduced into the legislature having in view both the extermination of vigilance and the reward of those who had attempted its extermination. There was a man envious of distinction, named Harvey Lee, sent to the legislature from El Dorado, who, the 13th of January 1858, introduced an anti-vigilance bill which created some discussion, although there were others of minor importance brought forward both before and afterward. This bill made it a criminal offence to "conceal any person or persons to prevent the due service of habeas corpus, or any writ or order of any court of this state, or of the United States." The bill was full of absurd and unconstitutional provisions not worth naming; in fact, nothing about the man or his attempts are worthy our consideration except as showing the tendency of the times. The legislature was anti-vigilance, and Mr McGowan

and that class were great men there, and could get almost anything they asked for.

Lee spoke for his bill as loudly and as strongly as he could. Caleb Burbank replied crushingly. By it Lee was greatly compressed in his moral presence, and his bill was *in forma pauperis.* Burbank was a man of large physique, as well as breadth of intellect. He was afraid of nothing. Lee was a law and order man, and as usual resorted to the chivalrous method in settling a difficulty. Scarcely had Burbank taken his seat when a page handed him a note which read as follows:

"*Burbank:*—

"SIR: If you ever refer to me in that manner again I shall take occasion to visit your desk with a bowie-knife. H. LEE."

To which the following prompt reply was sent:

"*H. Lee:*—

"SIR: Whenever you find occasion to visit my desk with a bowie-knife, be sure and fetch along a pail to carry home your entrails in.

"C. BURBANK."

This is very good as far as it goes; but the cool irony of it is seen only when we remember that this man was that very moment advocating measures to prevent persons from taking the law into their own hands, while he threatens to murder a man for opposing him. This is one of the strange things about it, that men of ordinary intelligence should not have seen that they broke the law in a tenfold greater degree every time they drew a deadly weapon than ever the Vigilance Committee did in their solemn deliberations.

Lee's bill was called the mob bill, and was aimed directly at San Francisco, though that was the last place on earth where a mob was likely to spring up. That city was now reaping the rewards of the virtuous acts of her citizens who would permit no mob to disgrace her streets, no not for an instant. But call the Vigilance Committee a mob, as that was evidently what Mr Lee intended, and there was still no neces-

sity for such a bill, for San Francisco was the place upon the coast least likely to need a vigilance committee soon again. So well and thoroughly did the committee of 1856 do their work that it was not probable they would have it to do over again soon. They hoped and prayed that the time would never be.

Another bill, called the bummers' bill, was introduced in 1858, and revived in 1859. Indeed, a phase of it appeared both before and after these dates. The bill itself was for the payment of fifty thousand dollars to the men of law for damages inflicted by the vigilance organization. The special phase of it mentioned was the payment of three thousand dollars each to Ferris Forman and R. A. Thompson for their expenses to Washington while seeking aid from the general government for suppressing the Vigilance Committee at San Francisco. This was the third time, that is to say in 1860, that this bill had been urged before the legislature of California.

The following from the *Bulletin* of the 5th of March 1859, signifies the spirit of the radical reform press on the subject:

"Last winter one Mr Groom made himself famous by introducing a bill in the California Assembly to appropriate fifty thousand dollars for the payment of Governor Johnson's law and order bummer army. Two days ago, one Mr Roane, emulous of the notoriety of Groom, took up the same subject, and brought forward a proposition to pay these bummers fifty-two thousand six hundred and thirty-one dollars and seventy-two cents, or nearly three thousand dollars more than was provided in the bill a year ago. Whether this bill will meet with a different fate the present session from what it experienced the last, we do not know, nor do we care much. It is a scheme to rob the treasury; and as long as that institution has money in it, and its keys are intrusted to men who are supposed to be approachable, we cannot expect anything else than to see similar attempts made. The bummer army scrip, as is well known, has been bought up by a few experts in the art of log-rolling and lobbying. Its holders are on the lookout for a legislature weak enough or dishonest enough to recognize it. As often as they think they have these, they will make an attempt to get their bill through. And after some of the recent votes of the present body, we are not surprised that the hopes of the bummer scrip-holders begin to rise.

"It may not be amiss, however, for us to keep the merits of the attempt to filch the people's money for the benefit of half a dozen bad men, fresh in

the minds of the people, in order that those who take part in it may at least receive a fitting share of deserved odium. The facts in the case are as follows: In 1856, on the breaking out of the vigilance excitement in this county, Governor Johnson, after temporizing and arguing with the leaders for some time, at length issued his proclamation, and called out the military power of the state to put it down. Great efforts were made by the leaders of the law and order party to organize a force to oppose the Committee, but further than getting a handful of idlers and bummers to enroll their names, nothing was done.

"The military did not come out; the public service was performed; and nobody was put to any inconvenience or loss by holding himself in readiness to perform service. The only thing really done was to go to the city-hall and enroll their names; and with a very few exceptions, those who did this were men who could have been bought with a half-gallon of whiskey to have done anything that promised excitement or a change. How many names there were enrolled we do not recollect, probably not exceeding two hundred at the outside. We think we risk nothing in saying that not a single day's time was devoted by any one, except the officers who were in the service of the state, to military duty, in consequence of his enrolment. In fact, at the time, there was really very little business going on here. People generally suspended private business to a considerable extent, and everybody's head was full of the ruling excitement of the moment. Therefore, if those who were enrolled in the state's service had devoted two or three weeks steadily to drilling and marching, they would have made no sacrifice of private business, for such was pretty much suspended in the first place; and in the second place, the majority of the law and order army had no business in ordinary times.

"Now to ask the state to pay this handful of men, for doing nothing, fifty-two thousand dollars, we say is an outrage. The very few good citizens who from principle enrolled their names in the law and order army, we are sure do not ask for pay. They had higher aims, or all their professions are unreal. The bummers and lunch-eaters deserve nothing. They made no sacrifice, performed no labor, and rendered no service to the public. To pay them fifty-two thousand dollars for affixing an X mark to the muster-roll, is generous compensation indeed. With even all the resources of this great state, we doubt if such a lavish expenditure is in keeping with a decent regard of the people's interest."

Smarting under the infliction of rascality which San Francisco would not suffer within her borders, the Sacramento *Union* of February 1858 says:

"Since the summer of 1856 there has existed in this state a class of men who have prated long and loud in favor of law and order; who have assumed to be the defenders *par excellence* of the laws and constitution. Those making the most noise in this party have generally been men who live in daily violation of the laws of the land. Moral laws they do not pretend to recognize. If

personally examined, a pistol or bowie-knife, often both, will generally be found upon the persons of these loud-mouthed and peculiar law and order men. This class is made up of gamblers, horse-racers, pimps, rowdies, ruffians, loafers, political mendicants, ballot-box stuffers, lunch-boarders, and men generally who live without honest labor and by plundering the community in some form. During vigilance times they volunteered, nearly to a man, to fight the Vigilance Committee. They entertain a holy horror of all such institutions, but snap their fingers at the courts and the criminal law, as usually administered, for the very good reason that some of the officers of the law are sure to be their friends, elected by their votes, money, and stuffing skill. By these or some other means they manage to be summoned as jurors, or as witnesses, it matters not which, and a mis-trial follows, or a verdict of not guilty. If a citizen has rendered himself obnoxious to any of this gang, he is dogged until found alone and unarmed, and is then assailed by a dozen of them at once, cut and stabbed, or most outrageously beaten by this banded together gang of law and order advocates.

"In Sacramento we have our own full share of the class we have been describing. They are always to be seen around, like gentlemen of leisure, but how they manage to live is a mystery to all honest and industrious citizens. They dress well, and talk very loudly about their devotion to the constitution and the laws; inveigh with great bitterness and many oaths against the very best men in the community, and hiss out the word strangler whenever they meet a man known to have acted with the Vigilance Committee. They would hang, if they had the power, all the members of the Committee; they are particularly in favor of hanging, provided the experiment is not tried upon any of their patriotic and honest persons; stringent laws to punish all those who combine to protect themselves against fraud and violence, they admire hugely, and hence they are generally ardent advocates of such bills as that introduced by Mr Lee to suppress mobs against the government.

"This portion of the law and order forces have recently illustrated in several instances their peculiar ideas of sustaining the constitution and the laws. A few nights since, and after the boat arrived from San Francisco, a man known to have belonged to the Vigilance Committee was insulted, spit upon, and beaten by members of the law and order gang. On Saturday night last, they found a respectable and quiet citizen of San Francisco accidentally in their power in the theatre; the watchword Vigilante was given, the man surrounded, and in a few minutes terribly beaten, because he was suspected of having belonged to the Vigilance Committee.

"What a terrible commentary upon law and order! These men hunt in packs, like wolves, fall upon their unsuspecting victims, wreak their vengeance upon them, and for what? Simply because those victims belonged to the only organization that such men ever dreaded in California. Does any man suppose that such moves are made out of respect for the law, or from a love of order and a devotion to the constitution? Certainly not. Every movement shows that opposition to the vigilance is purely personal and selfish. Personal satisfaction is the end and aim of all their acts.

"The singling out men from San Francisco, for the purpose of insulting and assaulting them, indicates the source and object of that provision in the

mob bill to give any court in the state jurisdiction over cases arising under any vigilance organization in San Francisco or elsewhere. This class of patriots desire to take men from home singly, so as to enable them to take vengeance upon them under the forms of law. But there is a point beyond which such violators of law, human and divine, will not be permitted to go, mob bill or no mob bill."

Finally reform became the watchword of the opposition, and along the line the word was given to suffer none guilty to escape, unless it were a good law and order man. But this was an ancient and oft-repeated subterfuge, and carried with it no great weight.

It was at a time when the slavery feud ran high, and the office-holders being mostly southerners, all sound slavery men must stand by them regardless of ability or morals. But the antagonism excited by vigilance swallowed up the passion roused by the promulgation of anti-slavery tenets. As in the war for the union, "give us revenge to-day," they cried, "and we will take state's rights to-morrow."

In politics as in social life these men of law were exceedingly clannish, their affection for each other bordering on the savage in its nature. Their friendships were of a nobler, more chivalrous, and unselfish character than those which commerce called forth from the colder northerners. The trafficking New Englander could scarcely understand them.

It was of no consequence with them whether the opinions entertained by the vigilants were right or conscientiously held; if conflicting with preconceived notions they must be put down. This was the theory of the judges and officials. If there was no other crime in vigilance there was at least stubbornness. As the gentle Pliny said of the Christians whom he was called upon to judge, "I could not doubt that whatever might be the nature of their opinions, such inflexible obstinacy deserved punishment."

Socrates after his trial was offered the opportunity of escape. Escape was easy and certain. Yet he preferred death to breaking the law, and thereby sinning

against his own conscience, and this notwithstanding the law brought an innocent man to punishment. He had preached obedience to law, and to save his life he would not now stultify the precepts he had taught for fifty years. This was another and a nobler obstinacy than that of the modern law-worshippers, who were willing enough to sacrifice others to their ideas of law, but not themselves. For myself I think Socrates reasoned very foolishly in this matter, though, as he was an old man, and did not care to leave Athens, he may have acted wisely enough. Socrates would have his conscience under law; I would have law under my conscience. He knew the law which condemned him to be unjust, and yet to that unjust law, that gross wickedness, he bowed his head and died. Peradventure for a righteous law I might die. And who is to be the judge? they ask. I, myself. As I for myself, and not for another, am to live or die by the law, I for myself must judge. A false maxim, like a popular vice, is a most powerful engine, and the quicker it be dissipated the better.

Nearly all the trouble of the 1856 crusade may justly be charged upon the governor, assisted by officials. Wisdom and dignity become a ruler. The people often forgive crime sooner than incompetency, effeminacy, or frivolity. The downfall of Nero was hastened more by his singing and playing on the public stage than by his cruelty. And as for Johnson's abetters, unfortunately the official suicides of Japan did not obtain in California, those *hari-kari,* cross-cuts, or the happy despatch by which civil officers of that country relieved the government. The officials of California would neither retire nor kill themselves at the request of those who had elected them.

In settling California, as I have before remarked, southerners naturally dropped upon the offices as theirs by right. They were accustomed to public positions

at home; they were fit for nothing else; they despised work; being chivalrous they were nearer akin to Irish shoulder-strikers, who were a sort of aristocracy in their way, than to the more plodding humdrum Yankee.

Religion as well as politics had its little fling at vigilance. The clergy were as a rule supporters of the Committee; some of them vindictively so. Once arouse the demon of discord in the breast of those whose mission is peace and none can hate so heartily. This we saw in the war for the union where the occupants of northern pulpits were very bitter in their denunciations of their southern brethren. On the question of vigilance some few denominations, though as ever nominally for peace, in reality were with the stuffers and strikers, these being of their fold. In one instance there was a pastor with the law party while his church was against him.

In a former chapter I spoke of a southern divine, alluding to Doctor Scott, who had written articles adverse to the Committee, and had sent them to Philadelphia for publication. For this, as well as for his persistent antagonism to the Committee, the doctor was hanged in effigy in front of his church, on Bush street between Montgomery and Sansome streets, on Sunday morning the 5th of October. About six o'clock, before the figure had attracted much attention, it was cut down by certain lovers of propriety, and the perpetrators of the deed were not discovered.

The affair created much talk, and the doctor did not altogether dislike it. He was being maligned for opinion's sake; he was being martyred for truth and justice. Never to him was such a Sunday as that Sunday. Never, as he entered his pulpit on the morning of that immaculate effigy, had he so tasted the blessedness of persecution. Calvary church was then the foremost in the city, of whatsoever sect or creed. Its pastor was talented, popular with all classes, being

revered as have been few men in California before or since. He was strong for law and order until the days of secession, when displaying strong southern sympathies offensive to many, he finally deemed it best to depart for Europe. Ah! those were glorious days when the pulpit was not inseparable from greatness; when all men, good and bad, revered the sanctity of religion; when the hem of a preacher's gown carried virtue with it, and the air he breathed was fragrant with piety!

Of course all had their say about it. It was straightway the fashion to condemn the act. No one dared to uphold it. It was cowardly, dastardly, and all that. The newspapers on both sides vied with each other in reprobating the deed. It was a godsend to the hungry *Herald*, being the first bit of substantial food it had had in many a day. "On yesterday morning," it groans, "the morning of God's holy day, was perpetrated in the streets of this city an outrage so damnable and disgraceful that as Californians we are pained and humiliated to be compelled to record it. The Reverend Doctor Scott, a clergyman of the Presbyterian Church, was hanged in effigy from a lamp-post opposite the church of which he is the revered pastor. An act of Vandal malice more atrocious, an act of meanness more revolting, an act of cowardly ruffianism more utterly, more unspeakably disgraceful we have never, in the long course of our journalism in a city where outrages and atrocities have been by no means unfrequent, been called upon to chronicle." Alas! for the poverty of English adjectives that Mr Nugent should be obliged thus to strain himself and his dictionary to find expression for the deep damnings within him.

"There are no words sufficiently strong," echoes the *Bulletin*, "to express our condemnation of the deed at the portals of Doctor Scott's church yesterday morning, or the contempt and detestation we feel for the perpetrators. The act was sacrilegious and cow-

ardly, and merits the severest reprobation." "We blush to be called to chronicle," says the *True Californian*, "one of the most disgraceful acts against public decency and decorum that has ever come under our notice." The *Post* is "most heartily ashamed to record," etc. The *Town Talk* is "glad the act has been justly stigmatized," and so on.

Now hung be the heavens in black, and let the earth groan! Let the sun never more shine upon that lamp-post; let all who dwell within the sound of the great triangle rush to the hills and hide their heads beneath the sand! May the ghosts of Casey and Hetherington forever hover about the nightcap of every vigilant's wife, and may all California from Yreka to San Diego to the depth of twelve feet blush to blood-redness in view of this elevation to a lamp-post of a tattered coat and patched pantaloons, the property of a certain well known bottle-merchant!

From the present point of time and intelligence the performance strikes me as neither good nor great, nor yet so very horrible. It was senseless and silly, and probably done by hoodlum boys, for the fun of seeing men make asses of themselves over it. The fact that the original of the figure was a clergyman made not a whit difference as to its merits or demerits, except that in so far as a clergyman commits an act worthy of punishment, in so far he should be more severely punished for it than the poor wretch whom environment has degraded. If Doctor Scott and Judge Terry leave their places to mingle in the fray, they should not cry the protection of their cloth if they are hurt.

A small class opposed the Vigilance Committee from pure motives, but there were not many, and these not of the clearest-sighted sort. Just as in religion the most devout worshippers are the most ignorant, the most sluggish of thought, so here there were honest but stupid men who found it difficult to open

the eyes of their blind faith in law and legal forms, and unlearn their respect for tribunals of justice taught them and their fathers. Sacred to them were all the forms and dogmas of their creed, however absurd, and sacred to them were all the forms of justice, however hollow. In government and religion many things are deemed sacred solely because they are old, and the origin of which, if we could know it, would make them appear profane enough. But the chief opponents to the movement were those whom it most directly affected in their persons, their pockets, or their reputation.

CHAPTER XXXVIII.

THE FRUITS OF VIGILANCE.

> An honest man may take a knave's advice,
> But idiots only may be cozen'd twice.
>
> *Dryden.*

THE one great cry of the opposition, prolonged from the beginning to the end of the crusade, and echoed by wise legislators, learned jurists, and public journalists at the east, in Europe, and throughout the world, was the disastrous effects which would accrue in the end, and the reaction. "It was not the fall that would hurt," said they, "but stopping so suddenly." So this grand tribunal would find itself in a position where it could not lay aside its power without disaster to its members.

The whole effect, it was asserted, would be bad, anarchical, prejudicial to order and quiet good citizenship. Teach men to cavil and threaten, foster in the minds of the people mobocracy, admit the right to rise at every slight offending, and you might as well do away with constitutions and statutes, and be ruled by the rabble entirely. There may be somewhat of truth in such remarks in the main; but let us see how they apply in the present instance.

Although opposed to office as a reward, opposed to the subtle snares of politics in political purifications, opposed to the trading and tricking called patriotism, the Committee of Vigilance were not opposed to letting the beneficial influence of their purgations permeate government in common with morals and every element of social well-being. Nay, they demanded it.

Government above all things needed regeneration, not revolutionizing but cleansing, and their work would prove futile indeed did it not secure this blessing. The Committee would have, as nearly as they could command it, purity everywhere, honesty, integrity, the same in public relations as in private, purity at primaries, at the polls, on the bench, in all offices and relations of government.

And now that their work was done they would not absolutely interdict office among their members, though for themselves, that is to say the nobler-minded, they would shun the very appearance of sinister design; and, indeed, it were better, as they often said, for vigilants to eschew office wholly and forever. For the moment such aspirations crept upon a member he would find it more difficult to be disinterested. He ceased to be wholly free, wholly unselfish. He could no longer weigh motives in the even balance of rectitude, and he incontinently came to eye every man who could influence a vote. His will was in a measure dissipated, his manliness was often gone, he must become the tool of a party perhaps, and the toady of vulgar men. His character, his conduct, his thoughts, and aspirations all must in some degree change. He is no longer the material of which vigilants are made. He has sold himself, and henceforth he is one to be watched, and not a watcher; he is one to be suspected, his opinions are no longer impartial.

But while avoiding office themselves, they made it their bounden duty to see public places filled by good men, and of these there were many not within vigilant ranks. It is true they were not of the nobler sort, for as things go the best men are not found in our public stations; they were as a rule not of very pronounced character, and if not very good neither were they very bad.

Here was something of a dilemma. The men of vigilance must not become politicians, and yet they must rule politics. The fruits of the reform must be

preserved; and it was finally determined that the best way to accomplish this was to organize a people's reform party, which should ignore all then existing parties, and should seek to carry into political circles the purity and unselfishness which characterized the Vigilance Committee. This was the plan: unsullied men, irrespective of party, were to keep unsullied the people's rights.

This was well enough, though in reality it was only creating a new political party, which, like all new parties, should sweep clean the halls of government for a time, and then become corrupt like the rest. This people's party, however, was a great success at a time when something of the kind was imperatively demanded. It was ruin to the best interests of the city to allow to remain in power the old office-seeking element, which made a traffic of the public service, buying and selling place as something by right belonging to them. And for ten years this new reform party did well, purging and purifying; during which time it was a common remark that no city in the world was better governed than San Francisco. It would be well if all men in office lived honest lives, but this is not to be expected. It is too much to ask of poor human nature. The government does not expect it. Advancement in it is based primarily on short terms, rotations, and quick and questionable dexterity, rather than on slow meritorious ascent. But better a ten years' respite from gross iniquity than none at all. The state at large was less fortunate, as we shall see.

If members of the Vigilance Committee did not feel at liberty to enter politics, there were enough who did; wary good men, careful conservatives who loved to reap where others had sown, who carried themselves circumspectly before the world, thereby accumulating a fund of reputation to be invested when morals were low. These would serve their country, and faithfully too—for a consideration.

While the Committee were still actively engaged

in their labors, these good sympathizers organized what was called the people's nominating committee, who attempted to select honest candidates from among non-office-seekers, and in the main they did their work well.

A mass-meeting was held in front of the American Exchange on the evening of August 11, 1856. It was largely attended by merchants and other prominent citizens, and steps for the organization of a political reform party which should continue the work so nobly begun by the Vigilance Committee were fairly initiated. Among other proceedings a committee of twenty-one was appointed to recommend candidates for municipal and state officers, and to take steps to secure their election. The following resolution was likewise offered:

"That the recent exhibition of the popular will, under the form of a vigilance committee, as manifested in this city, exhibits in strong relief the gratifying fact that the public safety is not solely dependent upon the form of government, but with us is based upon the intelligence, the patriotism, and the unity of the people; and that in our judgment, the patience in deliberation and the calmness in decision manifested by that body in the recent crisis, when they could neither be awed by power nor shaken by passion, proves that California has within herself elements that will ensure obedience to the laws when fairly administered, and a glorious future, if we be but true to ourselves."

There were composing this party few who had been prominent in the vigilance movement, which shows yet again that office was not the object of the leaders of the Committee; but it inherited to the fullest extent the opinions of the Committee, pledged itself to their purposes, and subscribed to the principles of vigilance, engrafting them upon their creed, and writing them in their catechism.

In the autumn elections of 1856, owing to the splits of the opposing party into republican, American, and people's, the democrats carried the state by a large majority. Now as the law and order men were democrats, the democrats anywhere might catch and hang as many horse-thieves and desperadoes as they

pleased; the more the better. In the case of the San Francisco Vigilance Committee the issue was between the merchant and workingmen, and the politicians and non-workers. Whether it was a necessary or worthy movement had little to do with it. And to carry their point, governor, lesser officials, and lawyers all stooped to countenance knavery, to hobnob with scoundrels, and strike hands with wicked men for the putting down of the just. In February 1857 a gang of robbers and murderers was captured in the southern part of the state, and a dozen of them hanged immediately by the people. The popular verdict was, "Well done!" Not a word then had the law and order men and journals, before the *soi-disant* guardians of the constitution, to say about traitors and stranglers.

After disbandment, plans were proposed by the executive committee for the protection of the ballot-box, and the board of delegates were called upon to concur and assist in their execution.

A committee was appointed to select captains and lieutenants to take charge of elections, on behalf of which, on the 28th of October 1856, Mr C. J. Dempster reported. The following is a copy of instructions issued by the committee on elections to the officers who were to be placed in charge of the polls:

"SIR: You are hereby appointed by the executive committee of the Committee of Vigilance to take charge of the vigilant police force which will be detailed to preserve the public peace and order in your district upon Tuesday, the 4th of November next. In assuming this responsible position you are reminded that neither the Committee of Vigilance as a whole, nor its members in their official capacity, can assume any side in political controversies. The adoption of any other course would not only be wrong in itself, but would surely result in dissension, since it is probable every shade of political opinion and belief finds many adherents among its members. The duties confided to you are the preservation of the ballot-box from any attack, and the securing to every citizen, whether good or bad, the free exercise of his elective franchise. For the attainment of these ends it is recommended that as early as possible you will invite the men selected to act under your orders on that occasion to meet you, and show them this authority. You will obtain

from each of them a pledge that, laying aside all other business, he will on that day report himself to you at the polls ready for duty, and will not absent himself without your permission. You will recommend each of them to vote as early as practicable, in order to be prepared for any duty which circumstances may require. You will carefully enjoin upon each to make no display of weapons except under the most imperative necessity, to be courteous to all, and abstain from demonstrations of any kind unless required by the contingencies above expressed. Should it become necessary for the preservation of the public peace to make any arrests of drunken or disorderly persons, you will send them to the station-house, but should any person attempt to vote twice or put in two votes at once, or should there appear to be any organized attempt to destroy the ballot-box, or to take it from the legal custodians, or during the counting of the ballots to interfere with the same by force, you will at once despatch a mounted messenger to the executive committee, and immediately arrest the perpetrators, and send them under a sufficient escort to the building in Sacramento street lately occupied by the Committee of Vigilance. It is expected that by arranging reliefs you will obtain a sufficient force to protect from violence the officers and the ballots until the counting is finished. Should the officers who have charge refuse, contrary to law and the instructions of the board of supervisors, to allow a reasonable number of peaceable citizens, representing as nearly as may be all the political parties, to be present during the counting of the ballots, you will immediately report the fact to the executive committee. The dragoons, who will be at the polls, will be your best and most speedy messengers. You will suggest to the men under your command the importance of keeping so careful a watch upon all who surround the polls, that no criminal shall hereafter escape punishment through lack of direct and reliable testimony. You will remind every man that he is in some measure the representative of seven thousand freemen, and that new lustre may be cast upon the good the Committee of Vigilance has already accomplished, by the energy, discretion, and impartiality he may manifest upon election-day, while the lack of any of these qualities may tarnish not only his own character, but the reputation of the body of which he is a member, and entail evil consequences upon the entire community."

The election of the 4th of November, so far as San Francisco County was concerned, resulted in the victory of the people over the professional politicians. The fact that Buchanan, democrat, received the largest number of votes for president, while the congressmen and state and city officers elected were republicans, people's reform candidates, and vigilants, shows that while a majority of the citizens favored the democratic party, they were, by the late trials which they had undergone, sufficiently divorced from party to cast their votes on the side of purgation and purity.

Already was now in force in San Francisco the consolidation act, devised by Horace Hawes, by means of which the city and county were united under one government with reduced legislative powers, and with taxes, which might be levied for each specific object, limited. This act required a strict severalization of the public fund, and prohibited, at any time, drawing or borrowing from one fund moneys to be employed for the benefit of another fund. All officers of the government were brought down to strict economy and accountability.

Its origin was that same dissatisfaction, arising from long-continued indifference, neglect, not to say rascality and criminality in public affairs, which called into being the Vigilance Committee; and although drawn by a mind regarded by some as bordering on insanity, and passed by a legislature little loving San Francisco, it was a most wise and practicable measure for thriftless, peculative times.

Some said that to this act rather than to the people's party San Francisco was indebted for her subsequent good behavior; but this is hardly true. Laws are of little avail when the people are not with them, as we have seen. Besides, Sacramento had her Vigilance Committee and her economic charter, but neglecting to put good men in office, her finances and morals were comparatively little improved thereby.

It was a different class of men that now became officers of the San Francisco municipality. Of the Vigilance Committee, after its disbandment, a few accepted office. Tillinghast was nominated for city treasurer, James F. Curtis for chief of police, and Doane for sheriff. Henry P. Coon, an elder of Calvary church, educated as a physician, a man of moral presence and of the highest integrity and respectability, was made judge of the police court, and as such became famous in dealing strict and impartial justice. Like many others, Mr Coon had sympathized with the Vigilance Committee, but had

never been a member of that organization. Though cautious, too excessively so ever to have made a reformer where the risk was anything like that incurred by the members of the Vigilance Committee, yet, with the sense of the community at his back, and sure that personal and pecuniary safety, social standing, and morality as well, lay upon the same side, he could castigate vice soundly. He did most excellent service in that position, and was reëlected until he felt obliged to decline the office further.

As police commissioner Mr Coon likewise did well. In connection with his two associates, the chief of police and the president of the board of supervisors, he selected from a thousand applicants of all grades a new police force, and what was yet more difficult, kept up the moral tone and efficiency of the force afterward.

The policemen of our American cities are a byword, a standing joke on justice. Composed mostly of the lower quality of our imported element, who, by attending at primaries and working for the successful candidate at the polls, have in their own opinion earned subsequent distinguished recognition, they sun themselves upon the streets, draw their salaries, and repose upon their luck and laurels. If wakened from their *dolce far niente* by the report of a pistol, and the offender rushes into their arms, they lead him off to prison, proud of their achievement. But he who expects from detectives that activity and keen enthusiasm in the ferreting of criminals which the case seems to demand, without the stimulus of reward other than that of salary, is smiled upon for his simplicity. Go to the police-office of any of our cities and enter a complaint. If you want thorough and efficient action you must pay for it, and pay in proportion to the amount of work you want done. So long as politics is made a profession, and office the reward of pre-election service, the people must expect, if they would have a thing well and quickly done, to do it themselves. By

the zealous and sagacious Coon the fat guardians of the city were made for a time to bestir themselves, until vice of a truth became afraid, and hid itself. Under this reform administration evil-doers knew almost to a certainty that their crimes would be detected and punished.

When the new officers came into power the city treasury was not only bankrupt, but scrip had been issued anticipating the revenue for months to come. The consolidation act was extremely rigid in its provisions as to salaries and expenditures, and permitted the contracting of no debts for running expenses. The police-judge was obliged for a time to furnish his stationery at his own expense. The police-docket becoming filled, the police-judge notified the board of supervisors that a new one was required. That body decided that under the law the book could not be bought, there being no public money under the control of the board. Finally, when it began to look as though the sentences of drunks and other important police doings would be lost to posterity, a member of the board arose and said that a court doing its work so well must not be left without a docket, and that he would furnish one himself. And sure enough the court was scarcely open next morning when the gigantic form of Samuel Meritt was seen entering the door, bearing in his arms a massive record-book, his big broad face beaming with satisfaction as he deposited it on the clerk's desk.

In truth, so narrowly were abuses watched under the new *régime* that peculation in office went out of fashion. Men positively prided themselves in being honest, efficient, faithful in conducting the business imposed on them by their fellow-citizens, with as strict regard to economy and success as they would employ in conducting their own private affairs.

The gas company ran up enormous bills against the city, and, as usual in such cases, protested they could take no less. Thereupon the new officials turned off

the gas, and each supervisor, judge, or other public night-worker brought his tallow-dip, whose dim but honest flicker argued a brighter, purer light than any hitherto flashed by brazen iniquity. And when judges suggested stoves to warm their rooms withal, the city fathers pointed to the beauty of the Californian climate, which so favored an impoverished city treasury as to render the expense of fuel unnecessary. Many a city lot had been rendered valueless by the arbitrary grading of streets over the sand and stone hills of the peninsula. By the new charter, backed by official pledges, streets were to be opened or reduced to the official grade only as petitioned for by property-owners. And even then there was iniquity enough in it to ruin many real estate owners.

To E. W. Burr, the first president of the board of supervisors elected under the consolidation act, much praise is due for his unwearied energy in providing ways for supporting the impecunious government. It was finally determined to lay a temporary tax on trades and occupations, a burden the people cheerfully bore, that the proceeds might be used to bridge the present financial emergency. The police-judge's court was likewise a source of revenue, as the fines imposed were by no means small.

Within a year the former signs of desolation in municipal affairs began to disappear. The city's credit was restored, and the clouds of gloom were lifted. Money began to accumulate in the city treasury. Bills were paid in cash, confidence was restored, and San Francisco entered on a career of unprecedented prosperity. Mr Coon was subsequently twice elected mayor, once in 1863 and again in 1865, serving four and a half years in all.

Now let us recite as briefly as possible what the Vigilance Committee of 1856 actually did. We may safely say it put a stop to open street murder, to unblushing corruption in courts, to ballot-box stuffing

and election frauds, and to divers public immoralities in their numerous nooks and phases. It lifted down-trodden virtue, and made right respectable. It purified the atmosphere of politics, and cleared the sewers of society.

If we confine ourselves to particulars, the actual punishment inflicted by the Committee was as nothing compared to the actual effect of the organization. Four men only were hanged; but the lesson taught was the same as if the number had been four hundred. Thirty or thereabouts were banished, twenty-five actually shipped hence, and five or more notified to leave; but it was roughly estimated that eight hundred of the worst characters a community was ever cursed with left in consequence. Think of it. In so small a community, eight hundred human vultures, thieves, murderers, corrupters of public morals, gamblers, prize-fighters, ballot-box stuffers, loafers, and vagabonds, feeding on the labors of honest men, driven hence almost in a body. It was a grand triumph of the right.

And not only were the honest thus obliged to support the dishonest in idleness, but they must build jails for them, and hire officers to watch them, and pay judges—alas! too often not to punish them as I ought to say, but to liberate them. When we think what harm one bad man can do, think of eight hundred betaking themselves from a community of less than fifty thousand, and then talk about the evils of anarchy and reaction!

A few figures will best show the nature and extent of financial reform. Officers' salaries in 1858, with an infinitely better governed city, were little over one quarter what they were three years before. The city and county expenses were in 1854, $1,831,825; in 1855, $2,646,190; in 1856, $856,120; in 1857, $353,-292; in 1858, $366,427; in 1859, $480,895; in 1860, $706,719; in 1861, $512,896. Prisoners and police in 1855 cost $236,690, and this was mostly expended in

maintaining and liberating criminals. In 1858, when the number punished was ten times greater than during the year before mentioned, the expenses were $59,943. For extra legal services the city was taxed in 1855 $31,821; in 1858, one quarter that sum did five times the execution. For advertising and stationery the city paid in 1855, $65,231; and in 1858, $2,727; assessment expenses in 1855, $45,011; in 1858, $9,100; election expenses in 1855, $22,920; in 1858 they were nothing. And so on. And this while from one fifth to one third of the city's revenue went to the satisfaction of old claims contracted during the swindling epoch. Since the expiration of the ten millennial years expenses have gradually increased, until now the government of the city costs at least twice or thrice what it would cost under prudent management.

It was stated that Sheriff Scannell paid the democratic central committee $100,000, regarded as equivalent to election, for his nomination to an office with a salary of $12,000 a year for four years; and yet as times were, there was money in it. David's eye was not Banquo's, nor yet like the eye upon the vigilant seal having no speculation in it; David saw much gold in perquisites, to which fund undoubtedly Casey and Cora would gladly have contributed a few thousands.

So simple a thing as the impanelling of a jury was profitable if one understood one's business. Likewise witnesses were always at hand who would testify on either side of any case, even though they had never heard of it before trial. Knights o' the post they were called in ancient times, persons who waited at the proclamation posts set up by sheriffs at their doors and haunted the purlieus of courts ready to swear to anything for a consideration. There was always money in office for judges ready to sell state morals by auction, as well as for sheriffs, who bought truth cheap and sold falsehood high.

The public leeches had not only absorbed the vast

patrimony inherited by the city, but had piled up a mountain of debt bearing interest at the rate of thirty-six per cent. per annum, under which she staggered seemingly toward bankruptcy. The frequent efforts for reform had secured some good officers in public positions, but their number bore no proportion to the sacrifices and perils encountered, and their influence was almost neutralized by the tricks and thefts of their coadjutors.

Now public confidence in the ability of the citizens to govern themselves was restored. The Committee had asked of the commonwealth no limitless privilege of *fossa et furca*, but only a little patience as the reward of great pains. Meanwhile the authorities, shorn of their strength, looked in wonder on the people who had thus wrested from them the power with which they had so lately invested them. They wondered, and they complained that some serious evil would come of it; but they mistook the intelligence and discretion of the people.

From this time forward the price of real estate advanced rapidly in all the principal towns of the state. Builders went forward in their improvements, with more confidence in the integrity of the commonwealth, and more security from the atrocities of criminals. Morality once more held up its head, and men talked again of bringing wives and sisters to the country, and of making this their permanent residence.

Another benefit of the new system was to put down that pest-house of politics, primary elections, where bribery was barefaced and expected, and all sorts of trickery that human ingenuity could devise was concocted to be let loose on election-day. In place of this evil, each year as election-day drew nigh a nominating committee, first chosen by the originators of the people's party, and after that each committee naming its successors, selected candidates for office according to their honesty and fitness, and recom-

mended them to the people. To avoid the evils attending the continued centralization of power, the members of each nominating committee pledged their predecessors to receive no nomination themselves within a given time.

No man living knew better the theory of the people's party, none knew better what should be the attributes and rationale of an organization having in view the unification and preservation of the benefits accruing from the arduous labors of the Vigilance Committee, than Mr Clancey J. Dempster. No man took a livelier interest in the closing affairs of the Committee, or labored more intelligently, more untiringly to secure to San Francisco the inestimable blessings which were made her rightful heritage, bequeathed by the noble men who had so long and earnestly and silently striven to achieve a conquest over evil, which should give their sons and their sons' sons fresh courage in battling for the right. None saw more clearly, or felt more deeply, or spoke purer words than he; and I cannot do better than here to give his views upon the subject as taken from his dictation.

"The people's party," says Mr Dempster, "realized that rotation in office was the primal cause of the adulteration of public virtue which, unless it were checked, would bring to bear upon our republican institutions an almost unendurable strain; and the organization resolved to grapple with the evil, and endeavor to educate the public mind to a comprehensive understanding of its fatal tendency. It was also realized that the corrupt and inefficient governments of our large cities had become a standing reproach to the great republic, and that this state of affairs must be remedied, or at least modified, if the example afforded by our country of the wisdom of a government of the people, by the people, and for the people, was to continue to influence the thinking minds of the other nations. For the attainment of this end the leaders

of the people's party saw that it was necessary to separate the local municipal government from the general party politics of the state and nation. Some desired to go a step further, and vest the power to levy and disburse taxes in officers who should be elected exclusively by those who paid the taxes, and thus escape the many evils attendant on taxation without representation. These men realized that civic patriotism could be depended on only for emergencies, and could not be relied upon to secure that constant watchfulness which is as much the price of municipal official integrity as eternal vigilance is said to be that of liberty. They felt that in order to secure the safety which might result from enlisting the universal passion of selfish regard for one's own pocket, and escape the control of voters indifferent to municipal extravagance or dishonest officials, because unable to perceive the direct injury to their own pecuniary interests, such was the only solution of the difficulty. Active minds of the Vigilance Committee recognized that a reform with such aims could be effected only by long continued effort. The exertions of the Vigilance Committee had been required to clear the field; to relieve the community of the terror inspired by the association of the rough element with the corrupt rings of the plunderers of the city, and to protect the timid from all danger in the assertion of their right as freemen to vote at elections; and to break up the gangs of patent ballot-box owners into which they fraudulently stuffed the number of ballots needed for their purposes. They recognized the fact that the work accomplished was only the first step; that diligent and persevering labor was requisite to cleanse the Augean stable, and disentangle the almost inextricably confused finances of the municipality in order to put them on the pay-as-you-go basis, and this without taking any open and prominent part in organizing the people's party. Chiefly by their counsels, therefore, they were able to establish it on a basis which gave it

the control of the city government for a period of eight or ten years, during which time the financial obligations of San Francisco doubled in market value, and the taxes were reduced uniformly and equitably.

"The courts too were redeemed from the old reproach of inefficiency and partiality. Many of the exorbitant fees which left the individual by whom they were paid impoverished, and merely served to make their ultimate recipients the wealthy chieftains of gangs of retainers, were first reduced, and then turned into the city treasury, while the officials to whom they had been paid were compensated by reasonable salaries. This course relieved the citizens of the incubus of offices of immense profit being at each election struggled for by candidates ready to disburse in bribes and subsidies to corrupt men a very large percentage of the pecuniary value of the posts to be obtained. A public sentiment was created which made jury duty a sacred obligation to be fulfilled with comparative cheerfulness, from a due sense of duty to one's fellow-citizens, and the paramount importance of the public weal; and this very materially aided in bringing it to pass that the administration of justice from having been a byword now commanded the public confidence and respect. Before the organization of the Vigilance Committee society was completely disorganized. Property had no protection, and life was insecure. The obligations and privileges of a considerable portion of the people were even less secure than they would have been in a semi-barbarous country. Murders innumerable were openly committed, and the murderers went unpunished. Very many citizens felt that the time was fast approaching when they should find themselves obliged to abandon the brilliant business opportunities offered by San Francisco's advantageous position, and return to those communities where, if the returns of labor were less, it was also certain that safety of life and protection to property were to be obtained. The power of the

Vigilance Committee had swept away forever the most corrupt of those rings which had brought about the chronic evils which called that organization into being. The faithful and persevering efforts of the people's party restored to a grateful and rejoicing society all the welcome sanctions of law and order."

One year after the inauguration of the people's party we find in the journals of the day such expressions of satisfaction as this:

"Probably no commercial city in the United States has as much cause for self-gratulation as San Francisco. For three years past she has suffered the very extremity of hard times. Her business had fallen off; her population had decreased; her property had become vastly depreciated. Worse than all, her government was in the hands of a corrupt and unprincipled knot of leeches, who had sucked every drop of her revenue, and were fattening upon her credit. It was at this crisis in her history that the people awoke to the danger of their position. By the exercise of courage and decision almost unparalleled, they wrested the control of the city's affairs from those who had ruined and made her bankrupt. They instituted economy in place of extravagance. They inaugurated thrift, honesty, and official responsibility. The doctrine was enunciated that hereafter we must pay as we go, and that whenever we did not have the money to advance for a thing we would have to do without it.

"Never did experiment work better. It takes an effort of imagination to realize that this is the same San Francisco that we lived in two years ago. We have now, truly, a model government. Notwithstanding the fact that our population is composed of exceedingly discordant elements, made up by accessions from all parts of the world, we enjoy a freedom from riot and disturbance not exceeded by any city in the union. Property and life are both as secure here as they are anywhere. People travel our streets at all times of the day and night, feeling perfect safety. The carrying of arms has been almost entirely discontinued. Affrays and bloodshed, which seem to prevail all over the United States to an extraordinary extent, are now so rare here as to be almost unknown. Public gambling has been abolished, and the blacklegs and loafers who used to block up Montgomery street have fled to more congenial atmospheres.

"Compare San Francisco in those respects with Baltimore, or New Orleans, or New York, and see how much the advantage is on our side. The mail just arrived from the east brings us the news of desperate riots at New Orleans, of the systematic and deadly warfare between the Irish and American citizens there. Every night a murder or two, or a mob, or a desperate riot, is recorded. On election day, full one third of the voters feared to show their faces at the polls, such was the terror of ruffianism. In Baltimore it was worse. We see that city declared under martial law by the governor of Maryland, and seven thousand soldiers called upon to maintain the purity of the ballot-box. In New York is the old succession of outrages and riots.

"And in business affairs, also, we have just reason to be proud. The panic which has swept over the whole country, has left San Francisco almost unscathed. Our journals are not burdened with lists of failures. Our streets are not crowded with men and women thrown out of employ. If anything, business of all kinds has lately been given an impetus, and our prospects appear brighter to-day than they have for several years before.

"San Francisco favorably compares, also, not only with her sister cities at the east, but takes precedence of all the other cities and towns in California in point of good government and economy of management. While Sacramentans are groaning under a rate of taxation which is declared to be heavier than they can bear, we get along without difficulty upon a rate of taxation a little over a half as much, and are thinking of a reduction. Nobody talks about repudiation here, or of demanding that our bondholders shall reduce their just interest, as they do in Sacramento. The affairs of Stockton and Marysville are in almost as bad a way as are those of Sacramento. All of these places are rapidly running in debt. All of them have for officers men who neglect to pay sufficient attention to the necessity of public economy. To reward partisan favorites they squander the money of the people, without paying heed to that general bankruptcy which stares them in the face.

"And our superiority of government is no less manifested by the manner in which the laws are enforced. While the rondeau-players openly violate the statute everywhere else throughout the state, they dare not practise their calling here. For a week or two they tried it; two or three hundred vagabonds from the interior towns flocked here to fleece the people. Fifty or sixty rondeau-tables started. But the stern edict of Judge Coon went forth, and rondeau games collapsed, and the gamblers fled back to their old homes, discomfited.

"Our people should not fail, therefore, to appreciate these advantages. We know that the remnant left of those who have been driven from office and out of responsible positions keep their tongues wagging to depreciate the present government. These people pine for a return of the old order of things, but we fear little from their dissatisfaction or their slanders. Our people know too well when they are benefited."

Shortly before election there was an annual appeal to the voters by the people's journals, one of which, issued seven years after the killing of King, I insert here to show the contrast in the times:

"On Tuesday next the voters of the city are to decide whether their municipal affairs shall be administered as they have been for seven years past, or shall be turned over to the politicians. Our own history tells us precisely what to expect if they conclude to try the latter. San Francisco is fourteen years old. Seven years she was governed by politicians, seven years the people have managed her affairs. While the former ruled, improvements were neglected, taxes swelled enormously, property, which naturally should have advanced in price, either depreciated or barely held its own in value. Riots prevailed, violence was an every-day occurrence. Murder, veiled or

open and defiant, stalked through our streets. Honest men were compelled to go armed to their work, and every bush concealed a villain. Justice was perverted. The courts were rather the sanctuaries of criminals than their terror, and crime, if only deep and heinous enough to command the sympathy of unjust criminal officials, was sure to go unpunished. We were a disgraced, dishonored city. Life insurance companies charged extra premiums for residence here, and a man at the east who showed the uncontrovertible evidences of his wealth in real estate located here, was deemed the possessor of the most slippery sort of property that ever went under the name of real estate.

"Seven years up, the people dethroned the villains, expelled the hounds, banished incorrigibles, executed murderers, and undertook to govern themselves. Now how the picture changes. The physical face of the city assumes a new aspect. The streets shoot out into the suburbs and improvement is everywhere busy. Taxes cease to be onerous. We pay not one fourth as much for good government as the villains sweated out of us to support them in their infamous power to tyrannize over us.

"The streets are busy with the rattle and hum of industry, and the cry of one suffering violence is rarely heard. Night is as safe as day. The stranger wanders into the remotest suburb, or threads the narrowest alley, safe from assault, or the slightest suspicion of danger. Criminals abhor the city, for they know that detection is sure here, and punishment is certain. The courts are the friends of the poor man, and the injured appeal confidently to them for redress. Property is safe, and from afar seeks investment here. There is no city of its size in the union where there are so few burglaries, where the carelessness of house-keepers betrays them into so few losses, where incendiarism is so rare, where grave crimes so seldom stain the calendar. The life insurance companies have long ago ceased to charge extra premiums for residence here; the risk of violent deaths is less than in any other city of its size in America. Our finances are in a wholesome condition. We can afford to aid great public works. Our reputation everywhere is good, and our position in the society of cities coveted far and wide.

"There is no sophistry in the argument; no one denies or disputes the cause of this marvellous transformation. For seven years we were governed by the class who fancied themselves born to rule and fatten at the expense of honest, working, sober men; and during that while we suffered all that a city in a land at peace can suffer. Then for seven years the people attended to their own business, governed themselves, managed their own affairs. For seven years we were the slaves of the politicians, for seven more the politicians have been kept out of power and underfoot. Shall we return to the old order of things, or preserve the state and the good name which with so much toil we have won? Next Tuesday we shall have the answer."

Up to the year 1865 the people's reform party was very popular. The public pulse, set wildly throbbing by the war for the union at this time, had reached its most feverish point. Hitherto all questions of politics had been carefully kept out of the reform party.

Now loyalty to the federal union, a question vital in itself but secondary in local affairs, rose paramount to every other consideration, and the rabid demagogue press raved over the subject. An ill-timed and unfortunate resolution passed at this time by the people's nominating committee, to the effect that no person who had not voted for Lincoln and Johnson at the presidential election in 1864 should be nominated as candidate for any office, sealed their influence. Before this time there were many good democrats with the people. But the party was now split; three tickets were again placed in the field, and although the fruits of that reform never can be wholly obliterated, yet those strong bonds of purity which kept them united during these nine years never can be joined.

But what had become of the opposition, and what were they doing all this time! During the time local politics ceased to be a trade in San Francisco some entered the arena for state spoils, which were still the prey of good democrats. Some left the country for more genial political airs. A few adopted honest callings and became useful citizens. But all those that remained were very quiet, very circumspect. As Mr Manrow remarks of them, "The law and order fellows were always listening for the tap of the bell."

This was almost the first time in the history of the state where the people of San Francisco were heartily sustained in a popular movement by the country. Mining and agricultural districts have very stupidly and very unjustly looked upon the growth and prosperity of the city with more or less jealousy. "It is our gold and our labor that build their city and fatten them," they said, not thinking what would be the country without the city, without a market, or any place for the purchase of supplies, not thinking to what a low ebb the intelligence of a country sinks, away from the cultivating and progressional influences

of cities. But having so long felt the incubus of crime and misrule in their own midst, and realizing, moreover, the epidemic nature of political and social corruption, which cannot exist in one part of the state without infecting every part, they rose almost *en masse* from San Diego to Siskiyou, and cried the vigilants on. Military companies were organized and drilled in almost every important interior town, and stood ready to rush to the assistance of the popular movement in San Francisco the moment the first gun was fired. On an eight hours' notice five thousand men assembled at Sonora the 6th of June, to give expression to their sentiments in relation to the attempt made by the governor to put down the Vigilance Committee.

Yet there were not lacking men of law elsewhere than in San Francisco. A communication to the Los Angeles *Star* of the 9th of August 1856 bewails the Vigilance Committee of San Francisco, "who have set at defiance the law, disregarded state and federal constitutions, taken by force the state arms, placed themselves in open rebellion to the governor, arrested and manacled citizens, denying them the writ of habeas corpus; who have sent their emissaries into other counties, seized and dragged to their bastile their fellow-citizens, hanging some and banishing others. Having taken steps which they could neither continue nor retrace without infamy and probable bloodshed, having brought the state into disrepute abroad, and made life and property insecure at home, what was to be done? Bloody are they now, and butcher-bloody must be their future. Shall Los Angeles march on San Francisco and deluge her streets with the blood of her citizens? No. Fellow-citizens, to me it appears the only manly course for us to pursue is to separate ourselves from all civil and political connection with San Francisco and those who side with her, except as a separate state." Alas, poor San Francisco! Level now thy

hills and fill up thy valleys. Hide thy face, O citizen! Bury your heads ostrich-like beneath the sand for shame and fear, O Dempster and Coleman! Los Angeles shakes her skirts of you! Forgotten are her own arbitrary slaughterings, her jail-breakings, and her glorious crime exterminations, outnumbering five to one those of San Francisco; forgotten are the sometime bandit-decorated trees of her suburbs, her own honest and efficient committees who bravely risked their lives and property for the common good. This is not Los Angeles that speaks, but some unfledged law-fanatic, lately arrived, who feels that he must bray or burst.

Judge Hayes expresses the opinion that, but for the feeling on the part of the civil authorities of Los Angeles while McGowan was enjoying his *otium cum dignitate* in that vicinity, he would have been arrested and sent back to San Francisco; but the sheriff of Los Angeles did not feel inclined to arrest a refugee from justice, one who had been indicted by the grand jury of San Francisco County, and who in his opinion should be dealt with only by the courts, and send him where he would be sure to go, namely, to the chambers of the Vigilance Committee. Thus we see at every turn that by officers of the law justice is made secondary to form, punishment to pique.

They did not believe, they said, that the citizen was bound in conscience to aid in such a proceeding, but was justified in refusing to carry into effect the order even of the authorities when the certain consequence would be a violation of the laws that treat the execution of the vilest criminal, without legal authority therefor, as itself neither more nor less than murder. So they would break the law themselves to prevent the people of San Francisco from doing so.

Great credit was due the city of San Francisco, in the face of such sore temptation, for this triumph

of order over anarchy. So easily could they have settled the matter, so swiftly could they have sent after the assassin that justice which now must move so slowly, that the city people praised themselves for their moderation, and so did they of the interior.

"I consider these uprisings of the people on great emergencies," writes Mr Watkins, who has thought much upon the subject, "as bordering on the sublime. They certainly spring from a most hallowed principle, a principle deeply implanted in the bosom of every man by the hand of God; a principle which began with time, and will continue in all time to come; and we shall see its exhibition whenever an abused people shall be compelled to take upon themselves to defend a nation's rights or redress a nation's wrongs. My mind has settled down under the firm conviction that these uprisings are as necessary for the purification of the moral and political atmosphere, as that powerful and mysterious agent, which collects the materials of its awful battery from the dark bosom of the hovering tempest, is for the purification of the atmosphere we breathe; and you might as well attempt to dam the Sacramento with a leaf, as to stay their progress by the impotent and puerile legislation of fledgling politicians. The action of the Vigilance Committee of San Francisco grew out of this principle, and was remarkable for order, coolness, wisdom, determination, and patriotic sacrifices. Their complete justification is found in the midnight assassinations of San Francisco's citizens, which went unwhipped of justice; in the mid-day murders of her peaceful citizens engaged in their lawful avocations; in the sacking, plundering, and the conflagrations of the city; in the corrupt administration of the law by bad men, put into their official positions by fraud and violence; and in the destruction of the people's will by the desecration of the ballot-box by cut-throats and thieves, felons, and escaped convicts of

other lands. The Vigilance Committee has the sympathy of the great body of the people; and that sympathy cannot be weakened by bloody laws or vindictive speeches, whether made in the name of the democracy or in the name of the devil."

Would you, weep the fire eaters, would you, had you known the sad results—could you have done it? See the poor but honest men you have driven into exile; see this great and good expounder of our time-honored laws and constitution whom you have incarcerated; see the gubernatorial pride which you have brought low! And do you not feel the halter's noose tightening hour by hour round your own necks?

No class of persons was more greatly benefited by the Vigilance Committee than the Chinese. One of the most approved methods of low ruffians for raising the wind was to maltreat or levy black-mail on the Chinese. As a testimonial of their appreciation of the benefits thus conferred, the Chinese merchants of San Francisco subscribed one thousand dollars to the Vigilance Committee fund.

"I personally disapproved of the Vigilance Committee," says the Reverend Doctor Woodbridge, in a frank dictation which he furnished me, "believing the people would feel the necessity of having proper officers, and would take legitimate methods to place them in a position to repress vice; but my present thought is that I erred on the conservative extreme." Doctor Woodbridge preached in Doctor Scott's church the Sunday of the jail capture; there were few men in the congregation.

A ribald press denounced the association as a mercantile junta, which was far from true. The storms of public indignation which swept the land in 1851 and in 1856, with their thunderbolts of justice purifying the air and making it the fit breath of virtue, arose with the people; the leaders were the

last to move. But once determined, then let what was to be done be done quickly. Their boast was not words, but the accomplished fact.

As a San Francisco pilot puts it to an incoming Englishman: "The thing became too hot, so we determined to put it down. We elected Judge Lynch. The first few weeks we hanged pretty frequent; then we exiled the rest, making death the penalty of their returning. Then we handed the town back quite clean to the law. It took us three months to complete the job, and it has been quiet ever since."

CHAPTER XXXIX.

REFLECTIONS AND LESSONS.

> Could any but a noble, prudent cause
> Begin such motions, and assign such laws?
> If the great mind had form'd a different frame,
> Might not your wanton wit the system blame?
>
> *Blackmore.*

The reader should now have a pretty clear idea both of the necessity, if any, of work to be done by the Popular Tribunal on this Pacific seaboard and the manner in which such work was accomplished. He has seen living together in communities men of all kinds, the good and the bad, the pious and the profane, the educated and the illiterate, the refined and those of low tastes, but all of more than average intelligence and ability, as the world goes; the whole susceptible of division into two unequal parts, those endeavoring to live fairly and honestly among men, and those endeavoring to live by robbery, upon the labor of others. He has seen among these communities, at various times and places and under conditions similar and dissimilar, the greatest apparent necessity of arbitrary action by some agency other than any then legally existing.

He has seen that these communities were in every instance either without a legally constituted government, or else that government in their midst was so weak, or administered by officers so wicked, as to be in a measure inoperative. He has seen how outraged justice will sooner or later rise and put down villainy, according to law if possible, if not, then by means contrary to law, the righteous being always

triumphant. All which, probably, has been sufficient to enable him to form an intelligent opinion as to the *morale* of the matter, and as to the right of men so situated so to act.

It would be not unfitting to drop the curtain here; nevertheless, in taking leave of the subject a few reflections force themselves on our notice, and certain lessons, all of which, however, must be briefly stated.

The material composing these many tribunals was varied. They who thus banded were not all men of honesty and integrity, though most of them were; they were not all of that quality or calibre wherein cool reason ever holds in check hot passion, but their actions for the most part originated in a sense of duty, the duty of self-preservation if not the preservation of society, and their judgments were formed and executed with no small degree of discrimination and fairness. We have seen many cases of mobocracy in the mines, where hiccoughing gold-diggers adjudged their fellow-creatures to death, and swung them into eternity amidst the drunken orgies of modern bacchanalia.

These popular punishments were sometimes no less horrible, no less criminal, than the crimes themselves. Wretches there are in this world, and they may deserve to die, and their lives may not be worth a rush; nevertheless, the effect upon those who, in the intoxication of power, dare to strangle this God-given breath and hurl to hades this God-given spirit, is most demoralizing, most brutalizing. Often it happened that while the informal trial was going on, judge, jury, culprit, and mob had all drunk themselves into a state of intoxication, so that when the fearful self-imposed responsibility of passing judgment upon the life of a fellow-being and conducting him to execution came up, the actors in the scene hardly knew what they were doing. Often it happened that the hanging itself was so bunglingly done as to be but

cruciation, the crushing of life out of a writhing body, by hauling it several times up and letting it down, midst prayers and shouts and hellish hallelujahs. But these sickening scenes, which were a horrible mockery both of justice and humanity, were the exception and not the rule; and bad as they were, the evils thence arising were light as compared with the evils of corrupt courts of law. Rather let us refer to the grand tribunals of San Francisco for whatever of instruction we would derive from these abnormal proceedings.

The San Francisco Vigilance Committee of 1851, and that of 1856, as we have seen, each hanged four men and banished about thirty. Each rescued two prisoners from the county jail by means of a surprise party. The expatriated of 1851 were mostly convicts from Sydney; those of 1856 were Irish, and other foreigners of low origin. Some of those ordered hence were born in the United States; others were made citizens by our luckless system of adoption.

The crimes committed by the victims of the first tribunal were against property and life, while those by the second were strongly tinctured with political immorality. McDougall, governor in 1851, bowed to what he deemed the popular will, and kept faith in his promise not to interfere with the Committee save in appearance only; Johnson, governor in 1856, after making the same promise broke it, opposed the Committee to the utmost of his power, and thereby increased their labor and prolonged their existence. The reformation of 1851 was superficial and temporary; that of 1856 radical and permanent. The tribunal of 1856, in the character of its members, was well represented by wealth, intelligence, and industry. Brought together by reason neither of mental nor physical ability, nor of social or political standing, nor of wealth or culture, nor of literary tastes, religious belief, or scientific attainments, but by the sole

consideration of integrity and zeal in the work proposed, there was obviously great variety of character in the men composing the Committee, and wide divergence of opinion on all topics but the central and absorbing idea. Side by side they toiled, the ears of the refined deaf to the blasphemer's imprecations, and his eyes closed to the frequent and inordinate potations of the dram-drinker. Biasses of religion, wealth, and cultivation were swallowed in the one almighty thought of moral regeneration. On the broad ground of common interest they met to battle with a common enemy, and before the achievement of their purpose all lesser sympathies and antipathies were laid aside.

The largest element comprised men from the northeastern part of the United States; next those from the then so called western states, with some from the southern states. Of foreigners the French were largely represented, after them Germans, then English, Irish, and Italians. But seldom it was asked, Where is he from? What is his religion, what his politics, his wealth? The questions were two: Is he honest? What can he do?

Outside of the Committee were many who sympathized with and contributed to its support, but from prudential motives never joined. Likewise, there were those in the Committee who did not rightly belong there. But on the whole it was a wonderfully firm and pure company for one of so large and promiscuous membership. The executive committee was an intelligent, manly body, composed, with few exceptions, of good men but not all remarkable men; many of them were very superior men. There were present the usual varieties of qualities, positive and negative, in opinion and action, but they were mostly men of thought, and of independent thought. There was no lack of probity, patriotism, and practical sagacity among them.

Money was freely spent. Nearly all carried into the cause unswerving fidelity, which was their strength.

The vocations of merchant and master-mechanic were those most largely represented in the Executive.

We have seen that the mob-law of the miner, appealing as it does to brutalizing passions, and executed often under the influence of momentary excitement and strong drink, is a very different affair from organized vigilance, dispassionately, conscientiously, prayerfully if you will, and unselfishly watching the welfare of the commonwealth, using force only when all other means fail, using its power with moderation, tempering justice with mercy, and gladly relinquishing its distasteful duties the moment it can do so with safety. We have seen that the San Francisco Committee of Vigilance condemned and executed dispassionately, and on no less evidence than would have convicted in any well conducted court of justice.

But the spirit of mobocracy, even, does not appear without a cause. It may be that truth and justice are on the side of the rabble, or it may be that passionate ignorance alone governs them. In mobs there is method, as in other forms of popular madness.

And now that the farthest west is reached by civilization and good government, some may ask, what are the stranglers going to do about it? Will they find some other excuse for the display of their pride and power? Must we always tremble lest this spirit of vigilance, like a bird of evil omen, shall forever overshadow us? Not so. There will be popular tribunals as long as evolution lasts. We are never going back to king-worship or law-worship. But just such displays as California has given us the world will never again see, because the engendering conditions will never again be the same. Human nature may repeat itself, but history never. Never again shall this world see feudalism in its ancient form, or the fanatical extravaganza of the crusades, or chivalry, or religious wars like those of old, or inquisitions, or reformations, or discovery, or vigilance committees

like those that appeared in the early days of California. The laws that govern society, like the laws that govern geology and astronomy, are absolute in their operation, yet the processes of world-making and world-moving not more surely than history repeat themselves. History should be written recognizing *a priori* the fact that in human societies, as in physical phenomena, for every activity there is an agent, for every event a cause; and that in all abnormal displays of social effervescence, like that of which these volumes treat, the nearer we can arrive at causes the more profitable our studies.

In no other community in the world could have happened a succession of such convulsions ending so triumphantly for peace and good morals; in no other country in the world could there have arisen a series of such startling anomalies in whose subsidence might be found only the purest and best effects, such originality of conception united with boldness of action, and tempered with coolness, temperance, and principle. Theirs was the courage to take up authority, and the courage to lay it down. A community of Englishmen never would have moved; a community of Frenchmen never would have ceased moving short of the gulf of destruction. These vigilants were law-respecting men, in defiance of law combined to execute the laws. Good enough laws had been subverted by lawless men, with a whirl of passion and excitement that threatened anarchy and ultimate ruin. And these self-acting prosecutions and executions of the popular tribunal exhibited in flaming colors the workings of a civilized society without institutions and without precedents. Five years after the state had been nominally under the dominion of law, with annual sessions of a legislature convened for the purpose of supplying a systematic jurisprudence complete in theory and efficient in practice, crime still hung like a hideous phantom over the cities, and over the Sierra foot-hills, sprinkling even the flower-wreathed valleys

with blood. God grant deliverance from such scenes evermore. And shame eternal would ever have rested on the memory of early Californians had they not strangled the monster as they did.

For some few centuries yet the iron-bound dogmatism of ancient societies will continue to condemn the action and principles of popular tribunals. Many members of such societies will fail to see in unlawful demonstrations any good, any necessity. They will continue not only to stigmatize every government under which such things can be, but to reprobate the people suffering them. They will see in the doctrine of the governed assuming instant and arbitrary control of the government nothing but that which is subversive of order and political integrity. They will continue to call such right only the right of might, failing meanwhile to question if their own moral and legal codes rest on any other foundation. They will continue to see no difference between a mob and a committee of vigilance, between a turbulent, disorderly rabble, hot with passion, breaking the law for vile purposes, and a convention of virtuous, intelligent, and responsible citizens with coolness and deliberation arresting momentarily the operations of law for the salvation of society. They will continue to see no difference between an old-world riot aimed at tyranny or injustice and a new-world uprising for the vindication of the existing government.

But the time will come when intelligent men everywhere will acknowledge the superiority of this principle. When laws intended to regulate intemperance, gambling, prostitution, and polygamy are all annulled, and the moral ideal shall have attained a higher plane, it will then be seen that that government is most stable which is founded on rectitude and independence, which relies for its support on the will of a virtue-loving people, and not on tradition or inexorable law. It will then be seen, more clearly than

now, that all power vests in the people, whether they choose to use it or to remain bound by superstitious veneration of shadow, that even after law is made and execution provided, the executive has no power except such as is daily and hourly continued to him by the people.

Slowly human nature and social habits adapt themselves to wholesome laws, until the laws are no longer necessary, and men do right from pure love of it. The child's walking-chair, without the aid of which it could not stand alone, becomes an impediment to its progress when no longer needed. Social institutions in their structure and functions should be not only such as keep men right, but such as make them desire of their own free-will to do right. That vice should be restrained and the vicious punished may be readily admitted without setting up law as an idol, and its ministers as the high-priests of our polity.

Rude and reckless men require rigid, despotic rule; barbarous offenders must be restrained by barbarous codes; a factious, cruel element in a society can be kept under subjection, or in such order as will enable society to exist at all, only by harsh, or at least determined means; whereas a settled community of intelligent, orderly people may throw off the chains of despotism, unite charity with chastisement, make milder the laws for offenders while making stronger the prison for felons, and so relax into the enjoyment of the largest liberty. Man, the most helpless of animals, is not fitted to live alone in a state of nature. Individuals must unite for mutual protection; and being free-will animals, in order that their wills may not clash to the destruction of each other, a compact is entered into between the parts and the whole. Individuals shall yield certain of their will and freedom to society as a whole, and society in return shall protect the individual in certain essentials. Now government and legislation to be effective must be based upon the theory of social

sequences, on the recognition of natural causations in the actions of men.

Amidst the intricate forms of social life, proper sense and proper instincts are not safe guides. That we may be endurable to our counterfeit neighbor we must ourselves become counterfeit. Our dress must cover faults and shame; our speech must be set phrases hiding half the truth; our manners must accord with set forms, and we must conceal our real selves under *convenance* and colors. This public prudery, contemptible as we may justly regard it, is an advance on public shamelessness. The secret sin that each heart hugs, fearful only lest it should show itself, is better so than shameless sin.

In the infancy of nations men believed that the rule of conduct imposed by the gods entered into all the affairs of life, so that not only were political and ecclesiastical rules ordained of heaven, but social and domestic matters likewise. Sumptuary laws regulating food and dress were no less a necessity, no less a divinity, than church or state ordinances.

All this while the intellect seems scarcely to feel its iron fetters, seems scarcely to be aware of their existence. Yet mankind are no less bound; the savage roaming the forest at will is bound; we of to-day with all our boasted liberties are bound. Civilization is only a progress from a state of unconsciousness of any law to a recognition of law everywhere.

Man when living in a state of nature must satisfy himself with the law of nature; but immediately he begins to assert dominion over nature, he must likewise assert dominion over himself. Yet artificial laws, laws of society, of mind, of morality, are not conventionally made, they are discovered by the observation of agencies at work. Science, progress, and societies act, though man should never know of it. Before precept is practice; before conventional law, morality. The organs of the body performed their functions long before their existence was known; so in social

and political affairs, principles are practised and men brought under subjection to laws long before they are aware that any such laws or principles exist. Servitude seems to be the normal condition of man. Liberty is but a form of self-servitude. Without individual subordination there can be no social organization or cohesion. Justice consists not necessarily in obedience to the laws of man, for this would make the legislator the creator of right and wrong; but, as recognized by Socrates, in force throughout all ages are unwritten laws, disobedience of which brings its own punishment. Look at man! What is he? A beast, yet more than beast; skeleton and skull, yet filled with ethereal life, spirit divine, thought mysterious! Within the narrow compass of his brain the universe lies visioned; memory holds the vast experience of the past, and hope dreams bright.

It is natural for members of staid communities to view with suspicion the social outbursts of border settlements, and to condemn the profane handling of what they have been taught to regard as sacred. But as is often the case in criticism, these censors of ours do not know what it is they condemn. Because border societies rise in self-protection against crime with which the law cannot grapple, they are denounced as factious, turbulent, and blood-thirsty. They seem to imagine that men who live in tents or huts have stone prisons in which to lodge their criminals; that prairie-ploughers, forest-clearers, trappers, gold-hunters, and the dwellers in towns of mushroom growth, situated beyond the border-line of civilization, found sitting in the wilderness awaiting them sheriffs, judges, jails, penitentiaries, industrial schools, and all the paraphernalia for catching, trying, and hanging criminals. They do not understand that the government under which these early societies hold their lands and nominally live fails to throw its protection over them, fails to meet the necessities of government, and leaves them to protect themselves or to die.

In many instances these settlements are obliged to await their natural growth like an evolution. The genesis of their government is like the genesis of government from a state of savagism. First, wandering families; then an aggregation of families; following which comes chieftainship, every man, meanwhile, looking out for himself, every family guarding its own interests, every settlement, at all times, ready to defend itself against the encroachments of crime. And yet these wise commentators, who, securely resting in their well guarded homes, attempt to establish principles of government by empirical surveys of society, ignoring the individual characters composing the body social, would have this plain, rough border-man, with the tiger at his throat, await due process of law before crushing the beast. Thus, forsooth, they may escape the name border-ruffian, banditti, lynchers, and the like. Let him who would lay down *a priori* public polities begin with man, honest man if he will, as the concrete principle of all government; examine well his condition, his necessities, then praise or blame him as he fails to embrace opportunity and achieve happiness for himself and those around him.

Most men are honest; the majority of mankind are trustworthy; as society is constituted men are obliged to trust one another. They are comparatively few for whom this huge and cumbersome machinery of government is kept in motion. Crime and injustice are the heaviest of all burdens, and in a new community their weight is often crushing. Before the criminal brings destruction upon himself every good man is taxed for his support, taxed for sheriff and jailer, for judge and hangman, to catch, confine, try, and execute him. Because of the existence of those few rogues, we must all live in fear of one another, support legislatures and courts of law, so as to prevent our stealing from and killing each other. We who have no desire to steal and kill, as well as they who have, must be watched, and by those whom we our-

selves employ; and so the whole world is kept in commotion, all on account of the sprinkle of villainy in it. The inability of civilized man to live without government costs him dearly. Unlike the savage and wild beast he may not spend his whole time in procuring food and basking in the sun, but a large number of his days must be taken from his producing, manufacturing, and commercial interests, to be bestowed upon the regulating forces of society, until government attains a conspicuousness greater than that of all industries combined. It is by evil-doers that lawyers live, that judges wax fat, and that officials, politicians, and armies suck substance from the land.

It is true that one wrong does not justify another wrong. But suppose we say that vigilance in the abstract is an unrighteous and immoral principle, which I by no means admit, was there not for our great popular tribunal some excuse, there being in reality no complete legal government? It is true that some of the officials were properly elected; many of them were not. Take the San Francisco sheriff of 1856. Which was the more unlawful act—for the Committee, with the sanction of nine tenths of the citizens, to hang Casey unlawfully; or for Scannell, who as was charged obtained his office by fraud, and was therefore no legal officer at all, to hang Graham under color of law, which he did a few days afterward? Was not Graham murdered? Were not the sheriff and his posse a mob?

Numerous other points might be brought up, showing how exceedingly weak was the law and order mind, to which the most simple and palpable absurdities never appeared.

I fully admit the risks attending a single act of disobedience, and that through the gap made by one breach of the law, many trespasses creep in. I freely acknowledge the wrong of doing evil that good may come, but I deny that the exercise of sober vigilance is disobedience, or broken law, or wrong. Whom do

these law-makers disobey when they outstrip lame law in their chase of offenders?

Some act as though men's laws built cities and made the corn to grow. The wise know that they do not; they know that of all stupidities stupid legislation is the stupidest, and that no human concoction is so weak, inept, and watery as unwise or useless law-making. Nature is despotic. Exceedingly jealous is she of her authority. Man may have dominion over certain of her minor products, but let him once enact laws and set up the show of sovereignty, and very quickly he is given a lesson in obedience. Man is not master on this planet. No matter how free he may think himself, nature has her clutch upon him. He may frame laws for his own guidance, but long before he could spell, nature had written in her book all the laws for his conduct. These laws are inexorable, changeless, eternal. If it please the people they may make memoranda for the regulation of to-day's affairs, and to-morrow tear them up and make more, but all such must be done in subordination to the higher and deeper and broader laws of nature.

And as artificial laws are powerless beside natural laws, so, as we have seen, are statutory laws inoperative when they conflict with fashion or social laws. Hence it is that the nearer our institutions conform to natural law, the more practical and permanent they are. Enactments of legislatures for the restriction or protection of commerce, such as tariffs and usury laws, as well as enactments for the restriction of freedom of will and personal liberty, such as gambling laws, total abstinence laws, and laws for the extermination of inexterminable appetites, however they may bridge an emergency, are always in the end productive of evil. "Law, law, law!" the people cry. One wants a law to prevent illicit relations between the sexes; a weazen-faced water-drinker wants a law prohibiting other people from drinking anything but water, as though laws made by the people embodied some subtile power

other than that inherent in the people. The rights of intellect, of individuality, of the moral nature—the right of man to pursue the tenor of his own way, to improve or debase himself as he pleases, I hold to be the only true groundwork of progress. This alone is liberty—freedom of thought, freedom of opinion, freedom of action; on such a basis alone can there be true conduct in life. It is the special province of law to regulate the acts of men, of morality to govern their thoughts and feelings.

In a republican government laws are merely a compact entered into by a majority of the people for the governance of the whole. This agreement is to last until circumstances render it necessary for certain forms or parts of the system to be changed. In order to avoid confusion in altering these prescribed regulations of society, the original compact or constitution should contain a provision designating the manner in which changes should be made. Thus it is clearly evident that a republican government is nothing more than a copartnership which may be altered or annulled at any time by a majority of the respective parties to it. Although I am by no means a secessionist in the Americanized meaning of the term, although heartily in favor of the abolition of slavery, and of sustaining the union of these United States by force of arms if necessary, on the ground that the federal alliance was made for life, and not subject to divorce, yet there are undoubtedly circumstances in which a state may be placed where it will have the right to secede, where it will secede, whether it has the right or not, if it can.

Nations, like individuals, are born and die; have their stages of childhood, maturity, and old age; have their minor disorders and chronic complaints incident to their growth and decay. And though like plants and everything of earth, throughout all this coming and going the race improves; and though by the accumu-

lation of experiences, the subordination of matter to mind is constantly increasing, yet we appear to be no further from death, nor are we able to exercise any more power over ultimate decay now than in the days of Adam.

True, we think it impossible that our institutions should ever fail, that our country should ever fade, just as all men think all men mortal but themselves. Yet the time will surely come when old England shall be tucked away among the tombs, and young America shall become first old England and then dead Rome.

The lesson of self-help so early learned by the people of California fixed in their minds the sentiment of supremacy. They were freemen in the broadest sense. Their rights they might delegate, but never barter; and if at any time the officer of the public should prove unworthy of his trust, they who had clothed him in power might strip him of it. The servant of the people whose deeds reflect not the will of the people, is already void of power, and officer only in name; a spring ballot-box and fraudulent returns may lift him to his seat, but they cannot make him ruler. There is no earthly or human source of power other than that which emanates from the people; no other divine right to rule than the divine right of self-government properly delegated. All questions of legal or popular right are relative, and not absolute. Different conditions of human society call for different institutions, and will and should have them. Like water seeking its level, government ever seeks to fall into the hands of the strongest power. This power is not made by the laws, but the laws are made by the power. To do away with change, and live forever under fixed conditions, you must first do away with human progress, for progress is change, and without the power of change there can be no improvement.

The object of every just government is to protect the

good, and to punish crime; if criminals fraudulently seize the reins of government, must good citizens, out of respect to law, stand silently by and see themselves disgraced and their country ruined? Thus was the right to revolutionize early and thoroughly recognized. A moral revolution, tempered with strict justice to every individual, was preferable to civil war, but either was better than the enslavement of virtue to vice.

The term law implies a line of action prescribed by some superior person or power, and laid upon an inferior. No human power is superior to that of the free citizen of an independent state, except it be all the citizens of a free state acting together. Laws should be so made and enforced as not only to fulfil their purpose in the preservation of social order, but both their form and functions should be of such a nature as that the unit of the society should of his own accord live up to their requirements.

It is the duty of a government to enforce the right and restrain the wrong; and when the sovereign power fails in this it is no sovereign power, but is subordinate to the power which overrides it; and consequently it is not the government. The hand which guides the machinery is not the power that moves it. The strength of a government is not in proportion to the number of its laws. The real power lies in the hidden forces behind law, and not in visible proximate forms. Political machinery without the vitalizing power of an intelligent people is like a steam-engine without steam. Laws and government are but the machinery of society for carrying out this contract, and judges and rulers are but the engineers to tend the machinery.

Government is but the representation of the united will and supreme power of the people; individual will and power being merged into the combined whole. A law to be binding must be self-imposed and autonomous. As one man is not responsible to another man for opinions and actions affecting only himself, so one

government cannot be held responsible to another government for its internal regulations. It is no less the duty of government to protect individual will from the wrongful control of other wills than it is to subserve all wills to its own. As government claims the right of inquiry into the relations of citizens, so citizens may claim the right of changing, remodelling, overturning, and revolutionizing government. If they have the power, it is their prerogative and divine right to use it as they please. It is thus that God and nature display power. Man has no political or individual master on earth. The primary functions of government and law consist in expressing and executing the sovereign will of the people. Laws are not self-creative nor self-acting; they are made by human agency, and by human agency may be controlled and changed. Are men made for laws, or are laws made for men, that they should not dare to rise above the work of their own creation when it fails to fulfil its purpose? Here was a blow struck purely in self-defence. It was a battle between the good and the bad, fought on a new line, without ring-rules or umpire.

I have said elsewhere that the *morale* of the matter turns on the right of revolution. Yet the question as to the right of a people to revolutionize, the right of British subjects to demand the magna charta, the right of the American states to declare independence was scarcely ever brought forward in connection with popular tribunals on the Pacific coast. There was here no war on existing laws or government. The law-makers, the guardians of public morals, that is to say the sovereign people, through their own culpable neglect it may be, saw good laws put to bad purposes, saw vicious judges warp law in the construction, the ends of justice perverted, and criminals escape by hundreds. If a majority of citizens have the right to rebel against unjust laws, to rise up and overthrow an unjust government—and this right will hardly be

denied by any progressive people of to-day—surely they have the right to demand that their own laws shall be faithfully executed by their chosen instruments. The men in office, however, were not the chosen servants of the people; they were, for the most part, scoundrels who had fraudulently stuffed themselves into office through spring ballot-boxes; and there was virtually no such thing as justice in the courts. The men of the time were not of the temper to rest quietly wrapped in a fold of red tape, and see their fellow-workers shot down in the streets and robbed of what they had come so far and toiled so hard to obtain; they were not of the stuff that haggles over empty traditions. They cared little for names. "The people of San Francisco have been called a mob," said General Wilson, while presiding over a mass-meeting assembled in Portsmouth square the 5th of June 1850, for the purpose of calling to a sense of duty the common council who had just voted themselves each a salary of five hundred dollars a month. "If they do call us a mob, what do we care? As for myself I shall be happy to preside over such mobs at any time." They cared little for so-called right ways or things sacred. Right ways were to them straight and simple ways that led to no wrong ends, and sacred things were things worthy of adoration, and not filthy political puddles or otherwise legalized pollutions.

Constituted authority is deposed by an unconstituted authority, which takes cognizance of offences which the law fails properly to punish, in a manner not laid down in the criminal code. What then? At best or at worst it is but a fresh demonstration of will, called forth by strange emergencies, by that power which created law and constitution, and set its servants on judicial benches to do its bidding—according to law if it so wills, or according to expediency if it so dictates.

The London *Times* thought that "an organized association, powerful enough to supersede the law of

the land in open day, could have no possible difficulty in amending the administration of this law, had they directed their efforts to such purpose instead of dispensing with law altogether." But this writer, like most of those who have condemned the action of the people in organizing committees of vigilance, either was not in possession of the facts, or had given the subject no thought. To overturn and reconstruct the machinery of law would have been to carry the evil, if evil it was, much further than the people wished to do or did. Was it better to hang the judges and ballot-box stuffers and elect new officers, or to hang the rogues the law would not punish, help the authorities, intimidate wicked office-holders, and teach them their duty? The circumstances were most peculiar. There was no time for speculation. This society was the product of no soil or climate; it had not had the benefit of centuries in which to grow and ripen its fruit; it sprang up in a day, and was likely to be swept away in a day. The New York *Tribune*, commenting on the affairs of 1851, remarks: "San Francisco, therefore, presents the singular spectacle of a community governed by two powers, each of which is distinct and separate from the other. They cannot come in conflict, since there is no aggressive movement against the law on the part of the Committee, and no attempt on the part of the regular authorities to interfere with the action of the latter. Public opinion universally upholds the course pursued by the Committee. This course, under the circumstances, cannot be called mob-law, or lynch-law, in the common acceptation of the term. It more nearly resembles the martial law which prevails during a state of siege. It has been suggested by the presence of a danger which the ordinary course of law seemed inadequate to meet. Life and property must be protected at all hazards; and nothing but the most prompt and relentless justice will give us security. These are probably the sentiments of nine tenths of the people of California."

"We condemn as sternly as any," writes the editor of a Richmond, Virginia, paper, "everything in the shape of disrespect for law, but if the law utterly fails of its object of protection; if murder, arson, burglary, theft, and every other crime are committed in any society with impunity, we consider it a mawkish and criminal sensibility which objects to the better part of the community resorting to the higher law of force."

"Truly this is a terrible state of things, and greatly to be deplored," comments the New York *Herald*, "but the people of California, it appears, not only have reasonable excuses for these summary and indiscriminate executions, but their situation is such as imperatively to demand them."

Nothing could have more plainly evidenced the moral feeling that animated the better class of citizens than the Vigilance Committee movement. It spoke in the loudest tones their abhorrence of the past and their determination for the future. It afforded the best guaranty that thenceforth California should rival the oldest and most upright states of the world in social order and good government; and that promise has been faithfully carried out. The forms of a society derive their character from the factors of the society: governmental organizations are determined by individual attributes. Low organisms mark low development; high social development can only come from high social structure. California's age of gold, like the early age of every nation, was eminently a fighting age. Nevertheless one good result arose from it. Many bad men were killed by other bad men, and these were hanged by good men. So, many a little society was physicked of its pain. The Circean slumber into which the venom of selfishness had cast the community was broken, and never again should ultra-moralists have the opportunity to proclaim the reigning evils in such hideous light.

As a matter of course all criminals were strong

law and order men. "Only give us a trial," said they, "it is all we ask," meaning thereby a trial in the courts, with one of their colleagues as judge, another as sheriff, and the jury-box well filled with sympathizing friends. It was by such as these at home, and by many abroad who knew little of the necessity for or the character of the revolution, that the doings of the San Franciscans were denounced as disgraceful, and in the eyes of some a stigma attaches to the state to this day in consequence.

I claim for this uprising a phase of social phenomena in its magnitude and purity not visible elsewhere in the highways of history. Mobs there have been many, and insurrections, revolutions, and civil wars. But where shall we find a people, satisfied with the law, loyal to their government, proud of their political principles and institutions, lawlessly rallying to the assistance of law? Every progressive country has its bursts of lawlessness, tending to greater liberty. But here we had liberty enough; indeed, too much, for it was fast degenerating into licentiousness. Had we been dissatisfied with our law, there was an easy remedy in the regular course of legislation. Insurrection would have been the last method thought of. The more free the people, often the more patient they are under grievances; bind them and they will burst their cords at any cost.

"Insurrections are generally wrong," says Buckle, "revolutions are always right. An insurrection is too often the mad and passionate effort of ignorant persons, who are impatient under some immediate injury, and never stop to investigate its remote and general causes. But a revolution, when it is the work of the nation itself, is a splendid and imposing spectacle, because to the moral quality of indignation, produced by the presence of evil, it adds the intellectual qualities of foresight and combination; and uniting in the same act some of the highest properties of our nature, it achieves a double purpose, not only punishing the op-

pressor but also relieving the oppressed." But the vigilance organization was as far from insurrection as from revolution, and further from mobocracy than from either. It embodied all the high moral purposes of revolution with none of the evils attending insurrection. It was based upon the highest and holiest principles incident to associated humanity—the sacrifice of self for public good; the sinking of self in a righteous cause; the lifting up of right and virtue, and the casting down of wrong and vice. In nothing did the spirit of self-management display itself in a more marked degree than in the organization of citizens' conclaves for the prevention of crime. Out of the necessities of society sprang a system *sui generis*, and developed into an institution which, however regarded in principle by conservative form-worshippers, was the savior of the commonwealth. In theory it was unique; in principle it was the essence of good government, the springing into action of the sovereign will of the people; in practice it was pointed, swift, and successful. With magnificent audacity a handful of men, in close assembly, backed by the better part of the community, in the name of law rise superior to law, overturn it, place it beneath their feet, and assume authority absolute, temporarily, for the purpose of vindicating the majesty of law outraged. And their end achieved they voluntarily lay down their power which offers no recoil, and return in peace to their private station, carrying with them the gratitude of every good citizen. The Draconian code was scarcely more severe, but the San Franciscans were far more prompt in the execution of their sentences than were the Athenians.

As I have said, the aim and spirit of the higher popular tribunal is to execute the law rather than to overthrow it. Where law was properly administered there never yet has been a popular trial or execution in California. Rarely in their improvised tribunals was a criminal punished until after a fair trial,

conducted as nearly as possible according to court forms, although the deed may have been committed under the eyes of the whole town. Usually there were twelve jurors, who must bring in an unanimous verdict; the prisoner might select his counsel and summon his witnesses. He was always humanely treated; I never heard of an instance where a prisoner was struck, or allowed to be insulted, and every reasonable request was granted. Not unfrequently, after the whipping of some petty thief, the sympathies of the large-hearted miners would be so excited for the miserable wretch, that they would make up for him a purse on the spot to help him away. The vigilance committees frequently paid the fares of their expatriated by steamers and sailing-vessels. There was none of the appearance of revenge about it, but if the deed was done, and men saw it, the doer might rest assured of such swift and severe punishment as it justly deserved. This is all the people of California aimed at when they took the scales of justice from the hands of bungling and atrocious judges, and assumed the administration of law where there was none; furthermore, this is all they ever did, and for this who shall blame them?

Therefore, after an earnest and, I believe, an unbiassed study of the subject, with as much willingness at the outset to condemn as to praise, with the secret workings of the institution, the motives which actuated the leading spirits of the San Francisco Vigilance Committee as communicated to me in person, their purity of intent and action, the high moral responsibility which they felt resting upon them, and the conscientious care taken that impartial and passionless judgment should crown all their acts—with these, as well as the existing necessities, the outer workings of the system, and its successful results, all before me, it is clear to my mind that not only was the movement justifiable, the principle a wise and

righteous one, but that it was the only thing under the circumstances that could have saved society; and that the noble men who staked their honor, their lives, and their property on the honest earnestness of their endeavor for the welfare of the community, are deserving the immortal gratitude of posterity. Like the senators Cineas found at Rome, they were an assembly of kings, above law, who dealt out justice fresh and evenly balanced as from the hand of the eternal.

These are the lessons; and further, free enlightened and progressive peoples will not always submit to ancient superstitions, howsoever imposing the idea, or howsoever dear the names by which they have been accustomed to hear them called.

They will have justice done. Coleman said it when he told the governor, "We are tired of having our citizens shot down in the streets." When will blind, bigoted law learn the lesson, and instead of crying so loudly with hands uplifted in holy horror go to work and do its duty? Cannot lawyers and judges see that the people do not want to meddle in these matters, as they call it? But through the laxity of our judicial and jury systems, and the laziness and indifference of hired public servants, the people are obliged, every now and then, to leave their business and do what sheriffs and judges are employed by them to do, and fail in accomplishing. Where justice is strictly administered the legal fraternity need have no fear of interference on the part of the people. In all the uprisings in California there has never been manifested any particular *penchant* on the part of the people for catching and hanging criminals. They do not like it. Naturally the law detests vigilance, because vigilance is a standing reproach to law. Let the law look to it and do its duty.

The members of the legal profession should seek by every means in their power to reform whatsoever there is of evil in their practice, and to renovate courts of law, and make them indeed temples of justice.

Most profitably might law step from its high pedestal and learn these lessons from vigilance. As has often and truly been said, in proportion as punishment is sure crime is made afraid. With the intricacies of law to aid him the ignorant criminal fears law less than the mob. Uncertainty takes from the penalty its horror; likewise delay, solemn deliberations, and court parade rob punishment of its wholesome vividness. All this, even where law is justly administered, leads the criminal to overestimate the chances of escape afforded by law; whereas the hard commonsense of arbitrary measures only executes the verdict of conscience.

Short and swift is the honest road to simple justice, but few there be in the legal fraternity who find it. The law maxims of the miner were brief, and easily understood. Equity and execution. The thief and murderer should die. There is no question that in many cases court organizations and statutory codes retard rather than accelerate the administration of justice. California never required an extraordinarily strong government. A firm, steady rule, such as obtained in other well regulated states, was all that was necessary. Gladly did the people everywhere welcome the magistrate with all his legal appointments; but when they saw that conviction under legislative enactments was next to impossible, they felt obliged to fall back upon their own more caustic code, which they rightly regarded as the *os sacrum* of their civil polity.

The study and observance of the law should ever command our highest attention; for it is law, as Cicero says, which regulates the interests of the human race. Therefore love, honor, and respect the laws, if so be they are worthy; but do not tremble or bow down before them. Yet centuries of sophistry to the contrary notwithstanding, I can but regard the lawyer who endeavors to clear his client, knowing him to be criminal, as an accessary after the fact. The ancient

arguments on this subject have no weight with me, and only show the imperfections of our judicial system. The court is the place to try causes, we are told. It is not the duty of the defendant's attorney to usurp the place of judge. The accused being incompetent to act for himself, his attorney may rightfully do for him whatsoever he can do if he has the knowledge. If attorneys were at liberty to undertake no cases except those known to be just, many just cases would lack counsel, and so on. After all this, and much more, there still remains the bald ungainly fact that an officer of the court, a lawyer, in the name of justice, in a court of justice, may righteously employ every art and subterfuge to unchain upon society a murderer, knowing him to be such, when for another, not a professed justice-monger, to assist the criminal's escape brings upon himself the charge of felony. Of just or doubtful cases I have nothing to say; it is only when guilt is certain. But how are we to know if the accused be certainly guilty until he is tried? Sometimes we may know it; generally we may know it before the case has proceeded far; and it speaks poorly for the legal fraternity that after these several thousand years of litigation no better system of attaining justice has been devised. Law-makers, governors, and all holders of office by sufferance of the people should be made to take heed how they tamper with their trust. Dereliction of duty in an office-holder should be constituted the highest crime in the commonwealth.

These are truths our legislators should by this time know, if teaching were of any avail. They should know that few laws are better than many. "Corruptissima republica plurimæ leges," Tacitus said; when the state is most corrupt the laws are most numerous. They should know that mild but certain punishment is more effectual to restrain the vicious than severe laws imperfectly executed. Therefore

judges who fail to punish should themselves be punished. The annual executions in England have been reduced since the reign of Henry VIII. from two thousand to one hundred and twenty. The character of the citizen is weakened by too stringent laws; likewise among independent and intelligent people severe and unjust laws are certain to be disregarded. They should know that this universe, from the great creator, or primary force, to the least and weakest of created things, is set up on the basis that might is right; that this order of injustice does not satisfy fair-minded and progressive men, who would improve upon nature and brute force, and not hold to ancient iniquitous maxims.

I have said before, and I repeat it, that for such a state of things as renders necessary popular tribunals the people have only themselves to thank. This, in the present instance, all good citizens who gave the subject candid thought were ever ready to admit. Abstaining from the privileges and duties of freemen, keeping aloof from politics and the polls, permitting the administrators of the government to fall a prey to the arts of base and designing men, were the chief causes that led to political corruption and social disease.

In California more than elsewhere in our confederation were these evils engendered. Two causes, each abetting the other, intensified the mischief. Society for several years following the gold discovery was in an abnormal state. A double attraction brought to our shores two elements, each of which for a time contended for the mastery. The gold-fields offered allurements alike to honest industry and to ruffianly rule. Hither came the virtuous with good intentions, bent on securing a competency, and then returning to their homes to enjoy it. Hither came likewise the vicious, with wicked intent, to prey upon society, and wallow in their rank corruption. Although the good

element preponderated, it lay dormant, while iniquity festered and grew virulent. While the workers were busy reaping their harvest, knavish drones usurped the government and sucked the sweets of office. Growing bolder they marshalled immorality in public places, and added to their obduracy brutal crimes. Then it was, when profligacy and criminality became unendurable, the people, that is to say the purer element of society, awoke to a realization of their dangerous position, and rising in their sovereign majesty, they put in exercise their inherent right, and crushed the monster crime.

It is easy to see, however, that all this evil originated in a neglect of duty. He who will not bestir himself to plant and reap deserves to starve. He who neglects to cultivate the mind, after the body is fed and clothed, deserves to be scourged with ignorance and all its concomitant credulities and bigotries. He who will not guard his inherited liberties deserves to die a slave. Now what is to be done? First eschew money-getting as the great and ultimate good. Let us have a nobler aristocracy than that of wealth. Let us learn to distinguish between liberty and libertinism, between democracy and demagogy. Let us cleanse our republican institutions of their rottenness, or else set up an oligarchy that shall govern us. Without paradox, and notwithstanding all I have said in defence of the attitude assumed by the noble men who composed the San Francisco executive committee of vigilance, I can say sincerely, give me despotism, the despotism of Russia even, before mobocracy, and every member of the executive committee would say to that, amen. Because we are faithless to our privileges and our trusts, as rapidly as may be this matchless government of ours, matchless for the regulation of the affairs of intelligent freemen, is tending toward mobocracy, toward demagogy; not a vigilance committee species of mobocracy, whereby intelligent, American-born citizens rise in their sovereignty and organize for the purpose of

cleansing themselves of their moral pollution. By no means. It is a demagogy composed of low, illiterate, and unprincipled foreigners, the scum of aristocratic governments, in the management of which they had no more voice than the fly in the turning of the wagon-wheel, and deserved no more. Our free and easy institutions admit this element unlimited entrance, admit it in a few short years to all or nearly all the privileges and dignities of the descendants of native citizens. On the one side we legislate against admitting the heathen Asiatic to do our scrubbing; on the other we open our doors for the refuse of Europe to come in and govern us.

Therefore it behooves the people, if they would serve God, their country, and themselves, if they would elevate the standard of personal and political morality and save their children much trouble, to be instant in their duty as citizens of the commonwealth. No government can long be respectable while its most respectable members do little else than denounce politics as everything that is vile. If indeed the public service is so filthy that clean hands cannot handle it, good men should set themselves at once about cleansing it, else they are not good men.

Obviously it was necessary that much of the work of the Vigilance Committee should be done in secret, yet it was not a secret organization, in the ordinary acceptation of the term. Associations in which demagogism panders to brutal instincts, and passion usurps the place of reason, are oppugnant to our institutions and to the age in which we live. Labor leagues, anti-Chinese associations, orders of Caucasians, and the like, having their origin in low ambition and their action in class oppression, cannot be too greatly reprehended; and none but the wilfully blind or perverse will see in such combinations of evil influences principles like those entertained by the best citizens, who, without personal ambition or private advantage, associate for the purpose of stifling a social

monster threatening social destruction. The evils inseparable from secret associations must not therefore be laid at the door of committees of vigilance, which are never intended as a permanent power, but as a desperate remedy for otherwise insurmountable wrong. Nor are they necessarily secret; the only secrecy employed is that of ordinary discretion in their deliberations upon the accomplishment of difficult and dangerous necessity. Aside from this their acts are open as the day.

The general welfare of society can never be properly directed by secret associations. From the very nature of the case a reformatory measure to be effectual must carry with it the sanction of the majority, to obtain which its discussions and actions must be open and public. I am not speaking of beneficiary societies finding pleasure or profit in signs, passwords, and degrees, nor of economic associations, but of secret, revolutionary, and political combinations for the accomplishment of purposes in which all have an interest, in which all should have a voice. Such is not the principle of vigilance, which though babbling little of its intentions, in the end throws open all the secret workings of its beneficent reform.

Cicero affirms that one of the chief causes of the fall of the Roman republic was that their voting was secret. Votes should always be given openly and fairly, notwithstanding what Montesquieu says of it, that "lorsque dans une aristocratie le corps des nobles donne les suffrages, ou dans une démocratie le sénat, comme il n'est la question que de prévenir les brigues, les suffrages ne sauraient être trop secrets."

In the grand tribunal of 1856 the chivalry party was a compact force wielded by leaders capable, bold; and unscrupulous. These men believed in aristocracy with themselves upon the surface. They believed in labor, when others performed it; in freedom, when they enjoyed it; in republican government, when they

held the reins. Though the followers of this party were not comparatively many, they were earnest and obedient. Its managers had control of the principal official positions of the state, and they saw at once that their power was in peril. Their rule had been attended by disorder, corruption, and fraud; the triumph of vigilance would give its leaders an influence over public opinion, and this they took for granted would be employed to their overthrow.

We have seen how they endeavored by skilfully prepared newspaper articles to commit the vigilance movement, for which these writers professed ardent admiration, to a secession policy, a policy which should divide not only the north and south but the east and west of the American union. Failing in this they attempted to sow dissension within the ranks of vigilance, and finally to crush the institution by main force.

It was wonderful to see men who, during the long fruitless struggle by patriotic citizens to emancipate the community from the tyranny of those influences which evaded or defied all law, had continued indifferent or lukewarm to its violation, skilfully gathering and banding all who from any motive, from any principle or prejudice opposed the Vigilance Committee, officials fearful of loss of present opportunities uniting with old corruptionists dreading investigation—it was wonderful. I say, to see those so lately indifferent suddenly eager to ally themselves with the worst classes in deadly hatred of the body which was then alone sustaining the spirit of the laws.

There is one most significant fact before mentioned, and which should never be lost sight of, the anxious desire of the Committee to surrender their power and disband their forces. The records show that as early as June 1856, after it had been only about one month in existence, a special sub-committee was charged with the duty of making preparations for a final parade, and disbanding on the coming 4th of July. Con-

trary to the predictions of their enemies and the experience of other communities, these men did not fall in love with and cling tenaciously to the power they wielded. Neither did they extend their control, as they were urged to do, to other parts of the state, although such a course would have gratified personal ambition and have secured greater personal and pecuniary safety. But for Johnson, Terry, and their chivalric and pro-slavery associates the history of this Committee could have all been contained within the compass of a half-dozen chapters.

The student of politics would do well to compare the excesses committed by so many communities suddenly liberated from the control of personal government, with the prudent course pursued by the eight thousand citizens of San Francisco, who, seeing the commonwealth rushing headlong over the precipice of political iniquity, seized the reins of power on the instant, held them with a firm conservative hand for several months, controlling a city of magnitude and wealth, controlling, above all, themselves, and restricting their acts to the simple purposes which had banded them.

Finally, in the varied experience attending human development, should this or other communities find it necessary with their own hand to helm the ship of state through an emergeney, such would do well to study the wisdom, the purity, and the devotion exercised by the San Francisco Committee of Vigilance as presented in these pages.

"What has become of your Vigilance Committee?" asked a stranger of a citizen of San Francisco as late as 1859.

"Toll the bell, sir, and you will see," was the reply.

CHAPTER XL.

THE LABOR AGITATION OF 1877–8

> But when to mischief mortals bend their will,
> How soon they find fit instruments of ill.
>
> *Pope.*

Once more the spirit of vigilance was aroused by the labor agitation of 1877–8. Then for the first time in California arose a conflict between capital and labor. The contraction of values throughout the United States, which were greatly inflated during the war for the union, continuing through a series of years caused corresponding contraction in expenditures. Enterprise languished. Manufactories were closed, and thousands of operatives thrown out of employment. Reductions of wages on railways and elsewhere were followed by strikes and riots. As there were comparatively few railways and manufactories on the Pacific coast, there was in reality no great hardship experienced here, no real cause for complaint. Work was not as abundant or as profitable as formerly, but there was little suffering in consequence. But there was here, as elsewhere, a bad element, ready to break out on the slightest pretext, and the pretext in this instance was the presence of the Chinese, without which excuse the agitators would indeed have been hard pinched for an excuse.

The cry was raised that the rich were becoming richer and the poor poorer. Not that there is actual antagonism between capital and labor, while the distance between them is natural and equitable. Capital is as necessary to labor as labor is to capital; and so

long as the rich are content to be richer and the poor to be poorer, there is no conflict until wages are insufficient to provide food, and then an uprising is sure to follow, provided the poor have strength to rise. And so was heard on the historic sand-lot of San Francisco the old cry, raised in the time of Job, and echoing down the centuries, What profit hath a man of all his labor under the sun?

This gradual widening of distance between rich and poor is fraught with no little danger to the commonwealth. Yet upon neither of these extremes can the country depend in time of danger. Between plutocracy and mobocracy is a strong conservative element, consisting of the mercantile and industrial classes, men of moderate means, slow of wrath, but terrible when aroused, of which are made vigilance committees and associations for the preservation of life, property, and country. It is well for both capital and labor to have a care of the American people, for this country is neither Mexico, Ireland, nor Russia. On the other hand, it is well for the American people clearly to distinguish between unjust and iniquitous monopoly and capital fairly and legitimately employed.

To attempt by law to regulate the price of labor or of food is injudicious in the extreme; but it is still worse for the people in their sovereign capacity to resort to irregular means for the accomplishment of their wishes in this direction. Such efforts always operate against the poor, and bring upon them in an intensified degree the very evils which they seek to escape. Cheap food and well-rewarded labor are grand things for a community, provided prices are natural, healthy, and remunerative to all concerned. But if food is forced by any means below the cost of production, then planting is diminished and scarcity follows; and the moment the force is removed, prices advance higher than ever. So it is with labor. Striking for higher wages, or a less number of hours—which is the same thing—attempts to force the manu-

facturer to pay higher wages than he finds profitable, closes his works, and leaves the artisan in idleness. This is the history of a thousand attempts already made, and thousands yet to be made—for strikes and blind stupidity are not to be eradicated at a stroke. And we may rest assured that for some time yet, and until human nature is somewhat changed, capital will continue to take advantage of the necessities of labor, and labor of the necessities of capital, each as it has the opportunity and the power.

Now as regards labor and wages. The argument of many is based upon the doctrine that labor is a curse, cheap labor degrading. Unquestionably, high wages are better for the laboring man than low wages; just as high interest on money is better for the capitalist than low interest. High wages and high interest are significant of the material prosperity of a community; and material prosperity, especially in new countries, where society is forming and the foundations of prosperity are being laid, is desirable. Where food is cheap, with high wages the laboring man can better provide for himself and family, with something to spare for recreation and culture. It is better for all concerned that labor should be well paid; the well-being of society is enhanced thereby. But we must not forget that high and low wages are relative terms. The price of labor cannot always be measured arbitrarily by money; labor is high or low according as it stands with regard to the price of food and rents. Ten dollars a day for carpenters in California in 1850, considering the cost of living, was not higher wages than five dollars a day in 1860. Further than this, we should not forget that the price of labor can no more be regulated by legislation or leagues than the rain supply. What would we think of a body of men assembled as law-makers, or as reformers, arbitrarily declaring in 1850 that carpenters should work for five dollars a day, and in 1860 that they should receive ten dollars? Wages cannot be regulated by rule, any

more than can the tides; they are governed by the inexorable law of supply and demand.

A well-organized society demands a subdivision of labor and a subdivision of power. Money, mind, and muscle are all power. In return for his labor, the workman receives a secured share of the gains for which the employer has ventured his means, energy, and skill. On these gains depend the wages of the laborer; and it is therefore to his interest that capital should be secure, for capital promotes labor, while labor increases capital. How absurd is the fallacy for men dependent on capital to wage war thereon, as if by dissipating or degrading it they would elevate themselves and better their condition! Talk of the cold-blooded selfishness of capital; what can be more inhuman and heartless than the policy of trades unions and labor societies, which by exclusion, combinations, and restrictions drive those poorer than themselves from all desirable employment, and force them to live on the ragged edge of debasing servitude?

Labor strikes are not as a rule successful; for even when capital succumbs, the direct and indirect cost of the strike counterbalances the results of the victory. It is an axiom of political economy, as well as of the moral law of freedom, that no artificial regulation of prices and wages is politic, right, or effective, although capital may for a time yield to the immediate expedient. The continued migration, aided by ready means of communication, and the rapid growth of population in a prosperous country, tend to lower wages. It is unreasonable to expect employers to pay two dollars for what is offered at one, while the working classes persist above all others in seeking the cheapest market. They cannot do it, for competition, prompted by the pressure of labor itself, does not enable them to receive or pay more than the market value. Too often the laboring man, unable to see far beyond his nose, places his welfare in the hands of some designing demagogue, who raises himself by

casting others down. What said the laboring man when steam came to do his work? Despite the well-proved fact that the use of machinery results ultimately to the advantage of the poor in particular, by cheapening the necessaries of life and making luxuries more accessible, it is not easy to persuade the few to undergo a brief privation for the general good. Even the United States is not free from the short-sighted hatred of labor-saving machines. In June 1877, the farmers of Ohio received threatening communications, forbidding them to procure such machinery, particularly self-binding reapers, under pain of having their grain and implements destroyed.

The assertion that unequal distribution of wealth forms the essential weakness of a nation is not altogether borne out by facts; for the English are to-day most flourishing and mightier than ever, and yet the existence side by side of extreme poverty and wealth is more marked among them than elsewhere in Europe. The advance of civilization does not appear to diminish the concentration of wealth. No country can claim a more generally disseminated culture than the United States; yet the mass of property lodged in a few hands is immense. Like seeks like, and capital associates to carry on vast undertakings, as railroads, canals, telegraph lines, banks. The feature of association grows stronger with advancing culture, and becomes powerful enough even to counteract the law of supply and demand, since combination defeats competition. Isolation breaks down, and men combine into firms, societies, and corporations. Awakening from the stupor in which feudal and hierarchic domination had so long kept them, the masses have become alive to the importance of combining their power and means, and the result has been the formation of benevolent societies, trades unions, and building associations, which all aim at the debarment of poverty, the accumulation of wealth, and the protection of labor against the encroachments of capital.

Trades unions in America have not met with the success hoped for, because the need of such associations not having as yet become generally felt, no very effective combinations have been made. The most flourishing has on its roll less than one third of the members employed in its trade. One of their chief aims is the reduction of working hours so as to accord, as the favorite expression has it, with the rules of Alfred the Great, who divided the day into three equal parts, for work, recreation, and sleep. In England many unions have enforced nine working hours per day, and in Australia, eight hours; but in America the ten-hour system is the rule, for the eight-hour regulation by the government is not well observed by contractors. The laboring man has the right to refuse to work more than eight hours a day, or four, or two hours; but is it not folly to imagine that a manufacturer can afford to pay as much for five hours' work as for ten?

An important feature of association is the coöperative societies, which seek to displace the wage system, secure more direct dealings between producers and consumers, save the profits given to middle-men, and effect a more equal distribution of wealth. By the establishment of coöperative stores the consumer is the gainer, and by the establishment of coöperative factories, the producer; the workingman gains not only the profits which passed to the employer, but independence. The growth of this system is naturally slow, owing to the difficulties encountered among a large number of partners, with small means; but as this union of capital and labor is the very essence of prosperity—the main impulse to general advancement—it merits the support of the citizen. The course of progress has been to the gradual elevation of the lower classes and the equalization of society; and bringing together producers and consumers tends toward this happy consummation.

In politics, also, the lower classes have been admitted to a larger share, but the equalization has not been on

the same scale in all countries; and, conscious of their growing power, the working classes have become impatient under the yoke where it presses too hard. Under the influence of undigested speculation, built on the theoretic Utopias which have been planned by Plato, More, and other philosophers, agitators have risen among the working classes, and proposed reforms in the social order in a more or less revolutionary manner. The origin of these movements, carried on by communists, socialists, nihilists, and internationalists, is to be found in those countries where an aristocracy of title and wealth has combined to keep the classes below them from rising out of their dependent condition. Toil is there too exacting, and wages too low, to enable the workers to readily assume a firm stand against oppression, for this requires some means and leisure. Luxuries are out of the question; and when comparing their life with that of the rich, it is no wonder that they complain, listen to incendiary expressions, and become reckless. They have nothing to lose by a change, but everything to gain. Communism is not repulsive in its main features. Christ advocated it, as reformers have done before and since; but society was not ripe for the change, and is not yet. Extreme communism is impossible, however; and yet it crops out whenever business depression creates more than usual distress. It is then that the contrast between poverty and wealth becomes more glaring, and causes a natural pang of envy. The possession of genius creates the same admiration and longing in the minds of the less gifted, yet they cannot be so endowed. Genius and energy will acquire the distinction and wealth which stulted minds and indolence cannot obtain. For the latter to claim an equal share with the former is unjust; to accord it would be to banish effort, check progress, and return to barbarism. Yet even the savage acknowledges the right of acquisition.

In the United States, where prosperity is more

general, chances more equal in the struggle for wealth and honors, and openings in life more plentiful than in Europe, the premium for energy and skill is larger, and communism has small prospects of obtaining a footing. Nevertheless, the love of luxury and ostentation has spread rapidly among the prosperous, and is widening the gap between the classes. The greed of capitalists and politicians has sought to grasp all means for the furtherance of these vices, and has immersed public institutions in a pool of corruption. The consequence is a wide-spread discontent, which has at times assumed an alarming expression. But some of our journalists have been too prone to attribute every labor excitement to communism. An organization of this class in Chicago, numbering less than 100 members, was magnified into colossal proportions. The outcry against them caused the *New York Tribune* to investigate the matter. Some of its reporters joined the commune, and found that the New York sections embraced less than 800 members, and the six Brooklyn sections 500. Thus, in the very hot-bed of American communism, not over 1,300 adherents were found, of whom nearly 1,000 were Germans, 100 Americans, and the rest chiefly Frenchmen.

The business stagnancy of which workingmen complained was caused by the over-production into which manufacturers were led by the excitement of a previous industrial impulse, and by competition. The market was overwhelmed, and a reaction took place, which obliged them to retrench. Under the consequent pressure of distress, the laboring class became more observant of the social and political evils around them. In California there were special reasons for discontent in the cheap competition of Chinese labor, which reduced the chances and earnings of workingmen, while it strengthened the power and added to the wealth of capitalists. A further cause for complaint was the enormous monopolization of land by a few

men, who, by refusing to utilize it or distribute it at fair prices, kept back from the masses a legitimate opening for work and prosperity. The healthy desire for country life was not, perhaps, so strong as might be wished, owing to the nervous strife for speedy enrichment, and the growing attractions of city life. Another reason was to be found in the want of accommodation on farms for hired men, who were not treated with the same consideration as in New England. The detestation of country life was shared by the tramp, who neglected the advantages of a genial climate and farm hospitality in order to idle in the towns. In San Francisco the mania for stock-gambling created much distress, by breaking up the homes of thousands, and dissipating the savings of years, all to add to the wealth of capitalists who themselves had held out the deceptive bait.

That real destitution existed is undoubted, although not in such severity as in the older states. In 1876 the San Francisco Benevolent Association disbursed $19,000 for the relief of over 7,000 persons, whose monthly average varied from 540 in May to 660 in December. In May 1877 over 1,000 were relieved, and in February 1878 the association and the churches fed over 2,000 persons daily. After this the number decreased with the larger supply of work, the number of unemployed persons up to this time having been estimated at 15,000 in San Francisco and 2,000 in Sacramento. The masses attributed the distress to the encroachment of Mongolians on the various branches of trade. Cigar-makers, for instance, had been almost annihilated by them; and shoemakers represented that the Chinamen in the trade outnumbered them by four to one; that two thirds of their 1,200 Caucasian brethren were unemployed; and that their earnings had fallen from an average of $25 a week in 1870 to $9 in 1878. In January 1878 two thirds to three fourths of the 5,000 carpenters and cabinet-makers were said to be idle; but their chief grievance lay with the hard

times and the convict competition; and concerning the latter they remonstrated with the legislature.

The associations of workingmen seeking protection against these evils were probably as fairly represented in California as in other states, and previous to the agitation, which gave them a fresh impulse, they had on their rolls nearly one third of the members belonging to the various trades. In the middle of 1877, when the agitation began, there were more than 25 trades unions in San Francisco, with about 3,500 members, the most compact group being presented by those connected with the ship-building and shipping trades. Several of the unions were branches of national and international associations. Their chief efforts were of course directed against Chinese and convict competition, but they sought also to restrict the admission of apprentices, to limit contract labor as destructive to good workmanship and leading to overwork and ill feeling, and to reduce the daily hours of labor to eight. The latter measure had in view not only the necessary leisure for culture and recreation, but the opportunities it would afford to give employment to more persons.

Occupied with trade grievances, the efforts of the working classes had assumed no decided political phase, beyond holding meetings on the Chinese question, and petitioning the legislature and congress for redress. The failure of these efforts exposed to them their weakness in the political arena. They had left the government chiefly to men of leisure, only to find their confidence abused. It is idle to assert that the workingmen had no grievances, or their leaders no ground for complaints, which, however, too often assumed a threatening tone. Corruption had crept into every department of government; nepotism had been reduced to a system, official peculation to a science. Almost any bill could be lobbied through the legislature with the aid of bribery; grants and subsidies could be purchased; and monopolies could obtain

privileges at the public expense, while the masses were burdened with a tax that swallowed forty per cent of the income of a small property, and obliged the average citizen to work one third of his time for a government which recklessly sank the money in useless salaries, subsidies, and peculations. The working classes became convinced of the necessity of a more organized action to obtain a hearing for their grievances. At this time came the news of the railroad strikes in the east, crowned by the Pittsburg riot, the result of a reduction in wages consequent on business depression. The representatives of labor met on July 21, 1877, to discuss the matter, and called a mass-meeting for the 23d, on the sand-lot in front of the new city hall. In view of the eastern tragedies, the police took precautions, and the national guard assembled at their armories. James F. De Arcy, organizer of the workingmen's party of the United States, presided, and spoke on the struggle between capital and labor, regretting that it had resulted in an appeal to arms. The fault lay with political leaders, who, enslaved by monopolists, had neglected the interests of the country for the sake of office. There were three millions of unemployed persons in the United States. The great cause of trouble was the length of the daily working term, which excluded a large number from sharing in the labor; hence the eight-hour law should be enforced. At this moment an anti-coolie procession came up, and a man in the crowd called for the appointment of a committee to wait on the Central Pacific Railroad Company, and ask that their Chinese employés be replaced by white men. De Arcy replied that they had assembled to discuss the labor question, not the coolie evil. After a few more speeches, resolutions were passed, expressing sympathy for those who had been shot in defence of labor; the grasping policy of the moneyed and governing classes was condemned as the cause of the depression in business; no further subsidies should be granted to

steamship and railroad lines; the military should not be employed; the reduction in wages was a part of the conspiracy for the destruction of the republic; the non-enforcement of the eight-hour law had overloaded the labor market; the government should take immediate steps to remedy the evil, and should condemn to public use all the railroad property in disaffected districts, allowing the owners a fair compensation.

During the session of this meeting, an anti-coolie club formed a platform near by, and gave rise to a riot, which in course of this and the two following evenings resulted in the destruction of a large number of Chinese wash-houses, and in fights between the rioters and the police, aided by vigilants, wherein several persons were killed. For immediately upon the outbreak had come to the rescue of law and order a large body of citizens, as a safety committee, with William T. Coleman at their head. The workingmen's associations denied the insinuations thrown out against them, of being connected with the hoodlums, thieves, and extreme communists who composed the rioters, and large numbers responded to the call which the president of the safety committee addressed to them. The associations in the interior also discountenanced this outbreak, while expressing sympathy with the eastern strikes; and no other riots took place, although Oakland found it prudent to make defensive preparations. A meeting of about 2,000 workingmen had alarmed the town by passing resolutions to the effect that, unless the railroad company discharged its Chinese employés, much damage might be done to its property.

On the following Sunday the clergy took up the subject, and agreed that, while the laboring classes had cause for complaint, they had been hasty and foolish in allowing incendiary language to carry them to extremes. This indirect way of blaming the workingmen for the riot naturally incensed the whole class, and their expressions regarding the overbearing vigi-

lants were by no means flattering; yet the charge was justified to a certain extent by the expressions of sympathy with the rioters in the east, and the indirect encouragement given to the San Francisco rioters by a large number among them. The eastern agitation had found a ready echo among the multitude of unemployed men, at least, and made them willing to unite for the obtainment of remedy. The Workingmen's Party of the United States appeared to be a promising organization, but since the California section could not act independently of the Chicago centre, the leading spirits resolved to form a distinct party for the municipal election in September. Among these men was an Irish drayman, named Denis Kearney, who felt inspired to regenerate American affairs, and who had made his début a few months before at a lyceum for self-culture, and subsequently as member of a committee appointed by the Draymen and Teamsters' Union to lay certain trade grievances before Senator Sargent. The rather ungracious reception accorded the committee excited the pugnacious spirit of Kearney, who began to thrust himself forward as an orator at other meetings besides those held by his own union. On the 18th of August he called to order a gathering of workingmen, at which arrangements were made to organize a party. This held a session four days later as the Workingmen's Trade and Labor Union, at which J. G. Day was chosen president, and Kearney secretary; but no effective organization resulted. In the same month a convention of workingmen met at Sacramento, and adopted resolutions, of which the following may be regarded as leading political principles of the class: the abolishment of all national banks, and withdrawal of all present bank currency in favor of full legal tenders issued only by the United States; exemption of $1,000 from tax and execution upon every homestead; all property to be assessed at full value, and the percentage of taxation graduated from one to ten; the

unconditional abrogation of the Burlingame treaty; the fees of office-holders to be reduced to the prices paid for skilled labor. The determined feeling among the workingmen to seek reform roused Kearney and his associates to renewed efforts, and on September 12th a meeting of unemployed men was held, at which Day presided. After recommending the establishing of soup-kitchens to relieve the hungry, resolutions were adopted: "Whereas, the contending political parties of the country having, through lack of principle or of statesmanship, failed to meet the growing wants of this rapidly developing country; and whereas, their past history furnishes no points of honesty whereon the workingmen can hang any hopes of their future good behavior; therefore, be it resolved, that the workingmen sever all affiliations with existing political parties, and do hereby organize, for the purpose of good and equitable government, a new party, to be called the Workingmen's Party of California, having in view the following reforms in politics: First, the abolition of all assessments on candidates for office; the people to own the offices, not the incumbents. Second, holding state and municipal officers to a strict accountability for all their official acts. Third, the establishment by the state of a bureau of labor and statistics. Fourth, the immediate reduction and periodical regulation thereafter of the hours of labor. Fifth, the creation by the state legislature of a convention on labor, with headquarters in San Francisco."

This was the beginning of the party which was soon to become a power in San Francisco. The preceding platform was but a base on which the leaders built the most extravagant reforms, tending to elevate the poor, overthrow land and moneyed monopoly, and eject the Chinese. These sentiments found ready acceptance among the class who envied the aristocrat rolling in wealth gathered by their hands, who hated the encroaching Chinaman, who detested the politician

as a betrayer and parasite. They were dazzled by the glittering prospects which rose before them like a mirage depicting shady groves and cool fountains to the exhausted traveller in the desert. The infection spread; men came to drink of the fiery harangue, lulling themselves in flattering hopes; tongues were loosened, and speakers rose one after another.

On the Sunday following, the first of the regular sand-lot meetings was held. The attendance was small, but a more successful gathering took place at Union Hall on September 21st, to consider means for the relief of the unemployed. State Senator Roach made the first speech, which treated not only of the Chinese evil, but of social and political corruption, and called for united action to obtain legislation in favor of the poor. Kearney added the forcible hint that every workingman should get a musket, and that a little judicious hanging of capitalists was needed. The mayor was appointed to receive subscriptions. At the following sand-lot meeting, Day was chosen president, and Kearney treasurer; but this arrangement was not to be of long duration, for Day was too temperate to suit the rabble. On the following Sunday, Kearney broke out in the course of his speech with the declaration that San Francisco would meet the fate of Moscow if the condition of the laboring classes was not changed; they had bullets and other means to enforce their object. Day interrupted him by saying that he would not preside at a meeting where such measures were countenanced, but he was yelled down. A portion of the audience thereupon resolved to hold a separate meeting.

Kearney made his arrangements accordingly, and on the 5th of October 150 agitators met to effect a permanent organization of the workingmen's party. Denis Kearney was chosen president, J. G. Day vice-president, H. L. Knight secretary, and several others were placed on the executive committee. The committee on constitution and by-laws submitted the

following principles, which were adopted after a fierce debate: "The object of this association is to unite all poor and working men and their friends into one political party, for the purpose of defending themselves against the dangerous encroachments of capital on the happiness of our people and the liberties of our country. We propose to wrest the government from the hands of the rich, and place it in those of the people, where it properly belongs. We propose to rid the country of cheap Chinese labor as soon as possible, and by all the means in our power, because it tends still more to degrade labor and aggrandize capital. We propose to destroy land monopoly in our state by such laws as will make it impossible. We propose to destroy the great money power of the rich by a system of taxation that will make great wealth impossible in the future. We propose to provide decently for the poor and unfortunate, the weak, the helpless, and especially the young, because the country is rich enough to do so, and religion, humanity, and patriotism demand that we should do so. We propose to elect none but competent workingmen and their friends to any office whatever. The rich have ruled us till they have ruined us. We will now take our own affairs into our own hands. The republic must and shall be preserved, and only workingmen will do it. Our shoddy aristocrats want an emperor, and a standing army to shoot down the people. For these purposes we propose to organize ourselves into the Workingmen's Party of California, and to pledge and enroll therein all who are willing to join us in accomplishing these ends. When we have 10,000 members, we shall have the sympathy and support of 20,000 other workingmen. The party will then wait upon all who employ Chinese, and ask for their discharge; and it will mark as public enemies those who refuse to comply with their request. This party will exhaust all peaceable means of attaining its ends, but it will not be denied justice when it has

power to enforce it. It will encourage no riot or outrage, but it will not volunteer to repress or put down, or arrest or prosecute, the hungry and impatient who manifest their hatred of the Chinaman by a crusade against John or those who employ him. Let those who raise the storm by their selfishness suppress it themselves. If they dare raise the devil, let them meet him face to face. We will not help them."

All this was to be done on principles which should raise the working class at the expense of every other. And after this the Sunday meetings assumed greater strength, while clubs began to form in every ward under the active superintendence of the leaders. Although language was freely indulged in which could only serve to encourage the hoodlum class, yet a calm resolve appeared to have taken possession of the party to strive for the main object, and to discourage any wantonness. The man Kearney was the leading spirit at every gathering, and spoke every night at one or more of the meetings held in different wards, urging unity of purpose, and the formation of military companies wherewith to intimidate their oppressors. It is but just to say that the incendiary harangues were little else than the overflow of an excited brain, serving to enliven the monotony of political speeches; they resulted in nothing more than a momentary applause, and the orderly behavior of workingmen at elections and demonstrations proved that the rough element was not large among them.

It is difficult to say by what means Kearney managed to gain control over the masses, unless it was due to a strong faculty for organization, and to the shrewdness and quickness of perception peculiar to Irishmen. He was a very ordinary looking man, this king of the laboring class, below the medium height, compact in build, with a rather broad head, slight mustache, quick but lowering blue eye, and a nervous temperament—born February 1, 1847, at Oakmount, County Cork, Ireland, the second in a family of seven

boys. His father died, and at the age of eleven he went to sea as cabin-boy, sailing chiefly under the American flag. He gained rapid promotion, so that on arriving at San Francisco in 1868 he was first officer of the clipper ship *Shooting Star*, a position retained by him on several coast steamers for four years. The habit of commanding thus acquired proved of service to him as a leader, although his inclination to domineer led to frequent ruptures with other officers. With industry and temperance he saved money, and in 1872 bought a draying business, in which he prospered until 1877, when the merchants withdrew their patronage because of his connection with the agitation. Although he appealed to his followers to support him, and drew $30 a month from the collection taken up at the Sunday meetings, it is said that he was not devoid of means. He married in 1870, and had several children, all trained in the catholic faith like his parents, although he himself had little religion. He was naturalized in 1876. In speech earnest and forcible, partaking of the epigrammatic, and showing a smattering of historical knowledge, he was coarse, nevertheless, ungrammatical, with a pronounced brogue, and shallowness of arguments and thought. His ideas of politics and economy were crude, being based on his own illogical conceits. For example, when he became king he would decree a minimum pay of three or four dollars a day for any kind of labor, the expenditure of which sum was to create an extraordinary development in the country. Every man should have his cottage and a few acres of land. Poverty was to be abolished, and accumulation of large wealth prevented by laws under which manufacturers and traders could not retain more than a fixed amount of profit, the surplus to be devoted to public works and institutions. He assumed the right to speak at any public meeting as the representative of the workingmen. Despite his tirades against Chinese, he often interfered in unprovoked attacks on that race. By his admirers he was compared to

Napoleon, to Cæsar, and even to Christ, and his vanity was quite equal to the emergency. The New York *Graphic* elevated the name of Ben Butler for United States president, and Denis Kearney for vice-president, the latter scarcely detecting the covert irony. He frequently expressed himself able to effect anything with his followers, from the lynching of a railway monopolist to the destruction of a city. At a meeting in December 1877, he promised, in the course of his customary tirade against thieving millionaires and scoundrelly officials, "If I don't get killed I will do more than any reformer in the history of the world. I hope I will be assassinated, for the success of the movement depends upon that." "Judge Lynch," said the reformer, on another occasion, "is the judge wanted by the workingmen of California; I advise all to own a musket and 100 rounds of ammunition." This braggadocio had its effect with the simple, for surely so brave a talker must be a great man. The promising aspect of the movement attracted a large number of workingmen, who raised the party to power.

J. G. Day, the vice-president of the party, was a Canadian carpenter, of Irish extraction, fully six feet tall, with reddish beard. Like Kearney, he was a temperate and industrious man, with a common-school education, but with good and rather thoughtful language, and opposed to incendiary harangues. A more prominent member than Day was H. L. Knight, the secretary, short, squat, with round face, twinkling eyes, and small gray mustache. He came of a Yorkshire family in England, with a strong proclivity for reforms, almost any kind being better than none. He arrived in America in 1842, and became a citizen in Missouri, where he was admitted to the bar. After serving through the Mexican war, he found his way in 1852 to California, mined till 1865, gave some attention to law, and finally became a Bohemian bummer. He presided at one of the first republican meetings in Nevada county, and served in the work-

ingmen's cause before joining the Kearney movement. Among other leading members may be counted another Irishmen, T. H. Bates, house-painter, with quite the air of a sporting man, and O'Donnell, quack.

At first the movements of the workingmen did not attract the special attention of the authorities, although business was evidently suffering under the continual alarm called forth by rabid speakers. But on the evening of October 29th, about 2,000 workingmen held a threatening demonstration in front of the houses of the railway men, on what now began to be called Nob Hill. Bonfires were lighted, with the usual fiery speech, interspersed with rough jests at the expense of the august offenders, who were greatly alarmed. Philosopher Pickett was there, and proposed to pull down a high fence thrown around the house of a man who refused to sell it at a reasonable price to a railroad magnate who wished to extend his grounds over the entire block. Kearney checked the movement, remarking, however, that were he to give the order to hang the railroad man, it would be done. Instead of this, he suggested that on the arrival of the China steamer, 2,000 men should march to the docks and throw the immigrants overboard.

Although the Nob Hill meeting was held half in sport, the men of that place did not like to hear 2,000 rough fellows talk of hanging them; so they had Denis arrested at a meeting on November 3d, on the ground of using incendiary language. The desired martyrdom seemed near at hand, and Denis quietly followed the officers to prison, waving back those among the crowd who would attempt a rescue. The customary sand-lot meeting was forbidden for the following day, Sunday; the militia was called out, and the vigilants warned to be on the alert.

That Sunday was an anxious day in San Francisco. Despite the rain, rough-looking men began to gather and indulge in rather free utterances, and finding no other place open to them, they hired the Agricultural

Hall. Day and Knight, with several others, were arrested on the platform, while more temperate speakers were allowed to proceed and allay the excitement, which at one time threatened riot. The supervisors had been working rather tamely in the movement inaugurated a few weeks before to relieve the distressed in San Francisco, but under the impulse of the present excitement, the citizens determined to act with more energy, and at a meeting on November 5th, presided over by the mayor, committees were appointed to canvass the city for subscriptions. About $20,000 was collected, of which some $12,000 was set aside for a free labor exchange, and the remainder distribtued among charitable institutions. The exchange was opened November 21st, and did good service. The supervisors issued an ordinance, termed the Gibbs gag law—after the supervisor who introduced it—which was intended to check incendiary speech. The leaders were meanwhile languishing in prison for want of bail, which had purposely been placed high. This was regarded as an attempt to punish before convicting, and helped to create sympathy for them. Finally, on November 14th, bail was obtained, and shortly afterward the charge against them of incenting to riot was dismissed, despite the rumor that the vigilants intended to hang them if they were acquitted. During imprisonment the leaders addressed a letter to the mayor, stating that they had been unfairly reported, that they were willing to submit to any wise measure to allay excitement, and that they would hold no more incendiary or outdoor meetings. No sooner was Kearney at liberty, however, than he resumed the customary tirades, assailing the judges, the police, and the gag law, and creating fresh alarm. On Day, the vice-president, imprisonment had evidently a dampening effect, for he objected more decidedly than before against the bombast of his colleague, whose rising importance and assumption had, besides, created envy and disgust.

Finding that his expulsion was probable, Day announced his secession November 25th, to the delight of Kearney, who could brook no opposition, and who had intimated that too much brains would kill the party. As a wholesome warning to other malecontents, he, at a ward meeting, moved and carried amid acclamation the proposition that "if any officer or leader in the workingmen's movement lagged behind, or proved recreant to the trust, he should be hanged to the nearest lamp-post."

Released from prison, Kearney's chief concern was to prepare for the Thanksgiving-day parade, which had been decided on in October. To collect the necessary funds, subscription-lists were opened and a concert held. At this, and at many subsequent entertainments by the workingmen, a farce was given depicting the terror of the railroad men during the night of the Nob Hill demonstration. In view of the late excitement, the policy of permitting the parade was much discussed; but so long as no incendiary features were noticed, the authorities could not well oppose it. Meanwhile the Asiatic world kept within doors, though watchful; stores were barred and theatres closed. Kearney's efforts were most successful, and as grand marshal he conducted over 7,000 adherents, the representatives of every ward and trade in the city, in orderly march through the streets, forming a most imposing protest against Chinese labor, iniquitous monopoly, and refuting the insinuations of incendiary intentions. The parade was not only temperate, but patriotic, since none but American flags were carried, and they by American union soldiers. The tenth ward club, which formed the first division in the line, numbered nearly 1,300, a favorable showing for the rapid growth of the party. Behind came eight more divisions, all bearing a number of emblems, mottoes, aphorisms, and pictures, chiefly directed against the Chinese, but also expressing the claims and dignity of labor, or denouncing the corruption of officials, the

greed of monopoly, and so forth. A favorite device was a huge boot, in close proximity to a flying Chinaman, which expressed the rallying-cry of the party, "The Chinese must go!" with which Kearney generally began his speeches. The procession terminated at the sand-lot, where the usual oration, poem, and music were given, under O'Donnell's presidency. Kearney followed with a speech against the Burlingame treaty, and thereupon announced the deposition of Day from the vice-presidency, in whose place William Wellock was now elected. After passing a resolution in favor of winding up the national banks, the meeting dispersed quietly, the only disturbance having taken place when some members of the procession went to the rescue of a Chinaman beset by hoodlums.

Wellock was a Yorkshire shoemaker who had served in the Crimean war. He was likewise evangelist and bible expounder. Landing in America in 1873, he worked at his trade in various places, and reached San Francisco in 1877, where he was naturalized. He was tall, with a long, narrow head, high forehead, full, short beard, and nervous temperament. Having married a widow with some means, he could afford that luxury of low foreigners—United States politics. His phraseology was not devoid of culture, and was rendered more attractive by an admixture of dry humor; but its chief ingredients were the frequent gospel quotations, of which his training as evangelist had given him a ready command. Thus by cheap religion the cause was made sacred. Parson Wellock they called him, chaplain of the party, before assuming the vice-presidency. He used to appear at the sand-lot, bible in hand, read a text, discourse thereon, interpolating arguments of a political nature. Like Kearney, he was not inappreciative of his own importance, and had magnanimously declared that he would accept no office. At a mass-meeting in December 1877, he promised that when he and his colleagues had cleared California of her demagogues, they would

do the same in other states, till the whole republic should be purified; then they would go to England and pull down the old monarchy. When that was done, Wellock considered his work as ended. Speaking of the monopolists, he would say: "These men who are perverting the ways of truth must be destroyed. In this book that is called the bible, the Lord is said to be a consuming fire. When he commands we must obey. What are we to do with these people that are starving our poor, and degrading our wives, daughters, and sisters? And the Lord said unto Moses, take all the heads off the people and hang them before the Lord. This is what we are commanded by a supreme being to do with all that dare to tread down honesty, virtue, truth."

The parade added greatly to Kearney's popularity, and the attendance at the following Sunday meetings numbered from 4,000 to 6,000 persons. He harangued as loudly as ever against railroad swindling, urged the formation of military companies, and affirmed that he was as ready to die at the hand of assassins in the pay of monopolists as in any other way, if it would help the cause.

At one of the ward meetings, a member proposed amid acclamations that Kearney should receive arbitrary power, like Napoleon when called upon in 1798 to save Paris. The arch-agitator had no objections; he was the voice of the people, he said, 40,000 of whom he represented, and would remain dictator till the people deposed him. In many of the ward clubs it was not prudent to dissent from his views, for men who did so were often roughly treated. There were a few workingmen's clubs where Kearney was not admired, and there were several associations which differed in name and principle from Kearney's party, declaring him a mushroom forced by incendiary fires.

An atetmpt had been made by Kearney on Thanksgiving day to form a central body of delegates

from various labor organizations in the city and country; but this failed, and he resolved to push the scheme in the interior by personal exhortation. Accordingly, in the middle of December, he and Knight set out to stump the southern country and to organize clubs. The expenses of the trip were defrayed by the Sunday collection fund, from which Kearney and Wellock drew some $40 a month each, and from which was allowed $10 a week for his services as secretary. Their efforts were not very successful among the farming communities, which were naturally conservative, but in the larger towns, as Angeles and San José, the workingmen mustered in force to applaud their fiery speeches. After his return, Kearney issued an address in the name of the Workingmen's Party of California to the workingmen of the United States, dated December 29th, which was extensively published, and dwelled on the various evils afflicting the country, as misrule, land monopoly, Chinese competition, stock-gambling, and railroad oppression. It demonstrated that reform was imperative, that self-help alone could effect it, and that all should unite to this end. "Do not believe those who call us savages, rioters, incendiaries, and outlaws. We seek our ends calmly, rationally, at the ballot-box. So far, good order has marked all our proceedings. But we know how false, how inhuman, how unjust our adversaries are. We know that if gold, if fraud, if force can defeat us, they will all be used. And we have resolved that they shall not defeat us. We shall arm. We shall meet fraud and falsehood with defiance, and force with force, if need be."

Another address, more in accordance with the established order of things, had been sent, December 12th, to the president of the United States by the workingmen of Oakland, petitioning for the abrogation of the Burlingame treaty. This was transmitted to the senate, but without effect. Equally unsuccessful was the movement of Kearney, January 3, 1878, when he led

several hundred unemployed men to the city hall to demand "work, bread, or a place in the county jail." On their march the columns were swelled to some 1,500. Halting before the mayor's office, they created no little alarm in the treasury office and among the store-keepers, despite their orderly conduct. The three leaders entered to confer with the mayor, representing that they could not control the men any longer; the capitalists, who had raised $78,000 some months previous to repress free speech, might now surely subscribe enough to establish an industrial colony, or take other measures for relief. The mayor could offer nothing but promises; and although a bill was introduced in the legislature authorizing the city of San Francisco to employ 2,000 men for three months, yet the municipality failed to respond. The alarm created by this demonstration came just in time to prompt the grand jury, January 5th, to indict Kearney, Knight, Wellock, and three others, for incendiary speech and terrorism. At a meeting of the cooks and waiters, December 29th, Kearney was charged with saying: "I am glad to see you making preparations for the fish-balls—that is, you make the balls, and we will fire them. If the members of the legislature overstep the line of decency, then I say, Hemp, hemp, hemp! That is the battle-cry of freedom." He defied the grand jury, and if imprisoned, he would work out of the jail and "annihilate every one of these hell-hounds in the state of California." The indicted men were arrested under the Gibb law and released on bail, the arrest and release being repeated several times. On the Sundays following the first arrest, crowds of from 7,000 to 11,000 assembled on the sand-lot to greet their persecuted chief, who denounced the mayor and grand jury, and declared that the workingmen would drive out the Chinese or die in the attempt. He foreshadowed a glorious future, and hoped that a later generation might find a slab with the inscription: Here lies

Kearney, the drayman, who led the victorious charge against the hordes of tyranny, and died for liberty and the rights of man.

During his speech at the tenth ward club, Kearney proposed amid cheers, that if the Chinese immigration continued, all should march to the Pacific Mail Steamship Company's dock, and blow the steamers out of the water. He urged the members to come to the sand-lot on the following Sunday, January 15th, with muskets and sticks. They had men, he said, who would manufacture balloons for dropping dynamite into Chinatown, and other infernal machines by which men might be secretly destroyed. These expressions were substantially repeated at the eleventh ward club, where several inflamed speakers had proposed to crown Kearney with a coronet of twenty-dollar pieces, to be taken from Nob Hill, and to form a military company, in order to learn how to step at a funeral, for the contest against the Chinese would not be given up till there was blood enough in Chinatown to float bodies to the bay. The proposition for a military company was responded to by 150 men. When Kearney put the question, "Are you ready to march down to the wharf and stop the leprous Chinamen from landing?" there were loud cries of Yes! Even the usually quiet Germans caught the infection, and one speaker hinted that were a few guns to be turned on the city, millions of dollars might be extorted wherewith to form a fund for the common benefit. This language could not fail to create alarm, supported as it was by the ominous fact that the military company of the tenth ward remained behind for drilling, after the club had closed. During this and the following months, several wards formed military companies, and took up subscriptions or arranged for picnics, so as to obtain a fund for the purchase of arms, and the shoemakers set an example to the trades unions by forming a guard. Some of the companies were never able to acquire better arms than broom-sticks, and

dissolved in disgust; but the tenth ward succeeded so well, that when its company had obtained some 80 men and over 100 breech-loading muskets, another company was started. When Kearney was elected lieutenant-general of these forces, March 6th, with Knight as adjutant, besides three staff-officers, a uniform was adopted, with black trousers, blue shirt, and fatigue cap. The summit guard alone refused to be controlled by men devoid of military knowledge, and fell under the displeasure of the leader.

Such speech and action were not lost on the authorities. On the 16th of January the leaders were placed under lock, the National Guard was called out, a war ship was sent to protect the Pacific mail dock, and the city fathers held a secret session, which resulted in the appointment of a committee for Sacramento, with orders to prevail on the legislature to pass at once such bills as were needed under the circumstances. The senate responded next day by passing the so-called Murphy riot bill, which met with opposition in the assembly, but passed on the 18th in an amended form. Under this act the authorities were empowered to arrest incendiary speakers and to disperse any doubtful gatherings. The workingmen were, of course, unanimous in condemning the measure. Kearney was prevailed upon to issue a proclamation to his followers, asking them to hold no Sunday meeting at the sand-lot, but to join the gathering at Oakland, where resolutions would be adopted, petitioning the legislature to repeal the riot act. The authorities were nevertheless apprehensive that the agitators might carry out the resolution to assemble in arms on Sunday, and the governor came to the city with his staff to render assistance, arms being forwarded from the military headquarters for the use of the citizens. To increase the general alarm, a run began on the savings banks, against which Kearney had been declaiming, and the cry from the unemployed rose louder than ever.

One dollar a day was offered for laborers on the railroad and in the park, and about 1,000 men responded; others condemned the measure as a pretext to reduce wages during the prevailing distress. Churches then spread free lunches, and exhorted to temperance.

A workingmen's convention had been called for the 21st of January, and although the mayor was opposed to an assembly of this kind in the midst of the general excitement, the governor prevailed on him to let it take place. The attendance on the first day was small, and no business transacted beyond condemning the incendiary orations of Kearney, who with his lieutenant was now in prison, the temporary chairman remarking that they had doubtless served to electrify the workingmen into action, but to continue them would be injurious. The following day Kearney and Knight were acquitted on the first indictment of the grand jury of inciting to riot, and released on bail on the other charges. The first ballot of the jury had resulted in nine for acquittal, two for conviction, and one blank. The second ballot merely changed the blank into acquittal, whereupon one of the jury declared that he was for acquittal, and demanded that those who had so voted should announce themselves. The result was that all declared having voted for acquittal, the two for conviction being evidently afraid to incur the anger of the Kearneyites. The same day came the news of the victory of the workingmen at the Alameda county election for state senator. At the foregoing election in September the total vote had been 7,118, which the republicans and democrats had shared pretty equally, the workingmen polling only 118. On the present occasion, the rainy weather and other causes had reduced the vote to 4,340, of which the workingmen carried 2,730, the republicans 2,038, and the democrats 572, a reversal of figures which created unbounded enthusiasm among the Kearneyites. Mr Bones, the elect, had declared that he was

not an adherent of Kearney, who had nothing to do with the law and order convention of workingmen which nominated him, but the former nevertheless assumed all the credit of the victory, and proceeded on January 23d to bring the new senator in triumph to San Francisco, where a large procession came to receive them. The same evening the workingmen's convention held its second meeting, with an attendance of 150 delegates, including representatives from the interior. Kearney was elected president of the assembly, and Manning vice-president. On the following morning business was taken earnestly in hand, and several resolutions passed, among them a bitter denunciation of the riot acts of the state and municipality, and of the conduct of the mayor. A platform was then presented, covering the stereotyped measures, reform of the general government, extinction of unjust monopoly, extermination of the Chinese, restrictions in holding lands, punishment of iniquitous officials, eight-hour regulation, amendment of the United States constitution, compulsory education, and the like. A party constitution was formed. A state central committee was formed, with five members from each senatorial district, and one representative from each trades union. After having denounced the National Labor Party, the convention adjourned on January 25th.

Notwithstanding the law's arrests, and the vigilant attitude of the community, the historic sand-lot still breathed loud threatenings. One Sunday Kearney produced a coil of rope with a noose at one end, declaring that to be the new unwritten platform of the party, by which should be measured all officials in the country who betrayed their trust. A joint committee was sent by the legislature to investigate the trouble in San Francisco. The members began their labors February 2d, attended a sand-lot meeting at Kearney's request, and found nothing illegal in the somewhat subdued tirades of the leader against the conduct of officials,

capitalists, bankers, and politicians, nor in the resolution that the Chinese must be made to go, peaceably or forcibly. The testimony taken at subsequent sessions from officials and civilians declared that incendiary language had been used every night, that Kearney had urged his followers to arm, that two military companies did already exist, and that the authorities were obliged to take precautionary measures against a movement which kept the city in continual alarm, prevented business, and cost the municipality much money. Captain Lees, of the police department, believed the agitators in earnest, since they so faithfully attended the meetings, regardless of wind and rain. Kearney had proposed to lead them against the China steamers; and he certainly could do whatever he pleased with them, for they feared him. The incendiary acts protected the workingmen as well as others, and interfered with no peaceable citizen. The Kearneyite witnesses scouted the idea of endangering the peace of the city, and asked their accusers to point out a single aggressive act committed by them. Judge Ferral took the same view, and declared that the workingmen had been merely blustering; the police had created a just discontent by their severity; rumors were current that the leaders would have been hanged by a mob if they had not been arrested. March 11th the committee presented its report to the assembly, showing that the adherents of the workingmen's party had not been engaged in the July riots of the year before, and that no overt act could be proved against them, although the language appeared of an incendiary character, if interpreted without regard to surrounding circumstances. It condemned the police for unwarrantable roughness in dispersing meetings. The passage of the riot bill by the assembly had been ill-timed, and it should be repealed, since the code provided for its clauses. The Chinese element was declared to be a curse, and suggestions were made for devising speedy means to give employment

to white men on public works. This indorsement of their conduct was a great triumph for the workingmen, soon to be followed by several others.

During the second week in February, the three leaders visited Santa Clara county to influence the election of state senator and assemblyman, and to organize clubs. The result was not as they had hoped; but the election was so closely contested that there was every reason to be satisfied with the progress of the party. Soon after, in March, came the municipal elections of Oakland and Sacramento, whereat the workingmen gained the victory for several of their candidates. The entire press now came forward to recognize their organization as one of the great parties of the state, and to laud Kearney as a shrewd politician. The subtle influence of railroad money was now apparent in this crude lump of humanity, formed for the purpose, among other things, of exterminating the monopolists who were now becoming their masters. It was likewise stated that the bonanza bank flung the arch-agitator a few pieces occasionally from its vaults. On his return from Sacramento, Kearney received an ovation, being marched in triumph through the streets of San Francisco by an escort of over 7,000 men. An attempt of the legislature to pass a bill for the sale of the Spring Valley Water Works to San Francisco, for fifteen millions of dollars, created a unanimous outcry in the city, and on March 16th a meeting of property holders was called to denounce the scheme. Upon the scene with a large escort appeared the agitator, and proceeded to take a place on the platform. A prominent citizen reminded him that he had not been invited, but Kearney insisted on his right, as the representative of the workingmen, to share in the deliberation, and calling for a show of hands among his adherents, he without further ceremony declared himself elected chairman. As such he carried matters with a high hand, obliged his enemy of the *Morning Call* to humble himself, tore up the

list of representative men who had been proposed as a committee on the question, and formed another list of names suggested chiefly by himself and his followers. Finally, he refused to allow State Senator Nunan to speak, on the ground that he was a politician, and during the confusion which ensued in consequence, a friend of Nunan pushed Kearney off the platform, but his followers came to the rescue and replaced him, not without some trouble, which involved the destruction of furniture and heads. The result of the meeting was the passage of resolutions instructing the city representatives in the legislature to vote against the bill, and the appointment of a committee, which despatched six deputies to Sacramento to lay the resolutions before the governor and legislature.

At the close of March, Kearney introduced a new element in his speeches. It had already been stated at a ward club meeting that the leader was opposed to Americans in the party, whereupon one of the speakers suggested, with great liberality of spirit, that all should receive an equal chance. That the charge was not without foundation appeared from a speech which Kearney delivered before the German club at the close of the month, and wherein he used the following words: "Pixley said to me that the narrow-faced Yankees in California would clean us out, but I just wish they would try it. I would drive them into the sea or die." If the vigilants, he added, took one step to break up the workingmen's party, San Francisco, with its wooden structures, should meet the fate of Moscow. The comments evoked by these remarks were severe and well-deserved, particularly the Moscow simile, and several clubs hastened to disavow any sympathy therewith; but a more formidable reprimand came from Archbishop Alemany of San Francisco, in the form of a circular, dated April 5th, and addressed to the priests for announcement to the congregations. It warned the people against the evil of seditious talk and association, admonishing and

even requiring every one to discountenance and remain away from incendiary meetings. Some of the fathers took occasion to impress the pastoral on the minds of the flock by earnest appeals, and predictions were freely uttered that Kearney would find his followers diminish in consequence. The leader took up the gauntlet at once, and declared that although his family belonged to the catholic church, and he was trained therein, he would allow none of its ministers to interfere with the political rights of the people. He called upon the women to advise pastors to attend to their own affairs, and even denounced the archbishop for allowing himself to become the tool of coolie protectors. Resolutions were passed that the party recognized no distinction of religious creeds, but united on one rule of faith alone; that resistance to tyranny is obedience to God. Interference of the church in political rights was declared sedition under the United States constitution. All were enjoined to aid the patriotic cause of the party. Several ward clubs passed similar resolutions, and one even sent a committee to the archbishop to request an explanation, but received from the representative of the prelate merely an exhortation to obey the legal authorities, and a hint to change the leaders.

The question which had now become all-absorbing among political parties in the state was the approaching election of delegates to frame a new constitution. The defects of the constitution of 1849, made for different times and circumstances, had become generally apparent. In San Francisco it was the opinion that special legislation should be more restricted, for it was a noticeable fact that legislatures of states, with single large cities to manage, have, as a rule, been tempted to plunder them. Besides the many special imperfections of the code, a mass of useless laws and amendments had been accumulating which needed weeding. During the legislative session of 1873–4 particularly, a large number of amendments were proposed. The matter was referred to the next legisla-

ture, however, which passed an act, approved April 3, 1876, recommending the electors to vote at the first general election thereafter on the question of calling a convention to remodel the constitution. This election took place September 5, 1877, when a small majority decided that a convention should be held. On March 30, 1878, an act was approved, regulating the formation and duties of this body, which was to be composed of 152 delegates, who were to be elected on the third Wednesday in June. Their compensation was fixed at the same per diem and mileage as those of the legislative members, for a term of not exceeding one hundred days. The new constitution must be submitted to the people at a special election to be held on the first Wednesday in May 1879.

The workingmen were fully alive to the fact that this was their opportunity for obtaining the reforms they had been so loudly demanding, and a determination became apparent that they intended to use every effort to secure them. Nor did the ward presidents, members of committees, and other officials of the party lag behind in this movement; but their zeal was evidently impelled by other inducements besides honor and patriotism, namely, greed of office, with its pay and other prospective advantages. The aim of the majority was therefore to secure nomination on the ticket; but Kearney was not willing to let the party so successfully organized by him be made a cat's-paw for the advancement of personal interests, particularly since the schemers had become so absorbed in their various plans as to care little for the leader. The aim of the party was reform, and this was not likely to be promoted by the entry of office-seekers whose nomination would disgust the people, and whose election was sure to retard the objects of the movement and create a split, all to the prejudice of King Kearney. Which is the greater, the ruler or the maker of rulers? Kearney saw no inducement to surrender his present position for any office in the gift

of the party; and finding that he could not in any case expect to control the convention, he resolved to maintain the character of a disinterested champion, and thwart the plans of the sub-leaders, who had become disaffected and were seeking to undermine him. Indeed, a coup was necessary for his own sake as well as for the party. He accordingly caused a resolution to be passed at a meeting of his adherents, declaring that no officer of a workingmen's organization should be elected to any political office in the gift of the party. This fell like a bomb-shell among the leaders; and at the meeting of the state central committee, April 26th, Secretary Knight began a severe attack on the Cæsarism fostered by the *Open Letter*, Kearney's organ, and on the policy which sought to displace two thousand able and tried officers, who had labored for the advancement of the party, to let a pack of ignoramuses reap the benefit of their work, and to elect dolts to frame laws for the state. The result would be a second Rump Parliament, held up to the scorn and derision of the country. Kearney replied in scathing terms, reviewing Knight's career as a loafer and low scribe whom he had raised from the gutter. He also attacked other prominent members, and created a turmoil, during which every person charged every other person with corruption. Finding himself outnumbered in the committee, Kearney brought the case before the sand-lot meeting, and declared that he would never allow corrupt men of conventions to rush in for spoils, destroy the aims of the party, and leave the people without a voice. Knight maintained that a state convention was the proper body to consider the proposed change in the constitution of the party; but the meeting sustained Kearney's resolution almost to a man. The county committee met the same morning, April 28th, condemned Kearney, and declared that they would not be ruled by one man. The decision of the sand-lot meeting had its effect, however; for although the state central committee continued to be turbulent,

the resignation of Kearney, called for by Knight, and tendered by Kearney himself, was not accepted. This body thereupon issued a proclamation, signed by Kearney and Knight, calling upon all persons to support the party at the forthcoming general election in its endeavors to so amend the constitution that the Chinese should go; land monopoly cease; the rich be taxed as closely as the poor; the children of the state be cared for; malefeasance in office be punished in the penitentiary; economy should guide all public affairs; and other needful laws be passed to restrict all-absorbing wealth. It also called on the workingmen to elect delegates to a county convention, and propose names for nomination to the constitutional convention. The delegates were to meet May 10th to make nominations for the county, and to elect delegates to a state convention, which had on the 16th of May to join the delegates from the congressional districts in nominating the eight candidates for the state at large to the constitutional convention. Each club would receive one delegate for the state convention, or one for every hundred members, and each county three delegates for every state assemblyman allowed to it. The principles of the Sacramento section of the party were more defined, proposing to regulate taxes, railroads, office-holders, justice, and make the employing of Chinese arriving after 1879 a misdemeanor.

On May 1st the county committee, the executive committee, and the presidents of the clubs held a meeting wherein Kearney was condemned for assuming too much power; but no further action could be agreed on, and the majority of the club officers returned at once to their allegiance, sustaining the leader, while others rejoined the fold gradually. On May 4th Kearney called a meeting of the ward presidents, seven of whom responded, and resolutions were adopted excluding all officers of committees, clubs, or trades unions from nomination to any office in the state in the gift of the party, and forbidding them to

resign in order to accept nomination; but all candidates for such office must be selected from the ranks of the clubs, unions, and associations. A plan of organization and government of the party, in sixteen articles, was also discussed and adopted, the main principles being: 1st, the calling home of the county committee; 3d, that each ward make its own nominations by direct vote of the people; 12th, that the clubs in the same ward combine in mass-meeting for that purpose; 15th, the final ratification of candidates to take place at the sand-lot.

On the following day Kearney crowned his triumph by procuring the dismissal of Knight as secretary of the party, H. M. Moore being appointed to his place. The county committee, which Kearney had dissolved, met with a limited attendance, and retaliated by denouncing the leader, severing all connection with him, and calling upon all loyal clubs to rally to their aid. Minorities in clubs of divided partisanship were advised to form independent associations. On May 6th the anti-Kearney members of the executive committee deposed Kearney from the position of president of the party, and chairman of the committee, and elected as chairman of the state central committee F. Roney, a moulder from the north of Ireland, and president of the eighth ward club. The title of president of the party was ignored. An address was thereupon issued to the electors, signed by Roney as chairman, and by Knight as secretary, giving as the reasons for Kearney's deposition that his manner was dictatorial, that he accused all of treason who differed from him, declaring the officers of the party to be traitors and schemers; that grave charges had been made against his honor and integrity; and that his language and conduct indicated a disordered mind. In accordance with a call from this central committee, the county committee united on the following day to summon a county convention of loyal clubs, for the purpose of electing delegates to the state convention.

Meanwhile a joint committee met to investigate the charges against the deposed leader. Sustained by the majority of the clubs, Kearney took no notice of his adversaries, but appointed men to fill the places of inimical members on the executive committee, and issued an address announcing this act, and urging the clubs to elect delegates for the state convention of the 16th, to which he would submit the question as to who was the legitimate president, and which the rightful executive committee. He also formed a provisional county committee. On May 8th the anti-Kearney faction held a mass-meeting, but the Kearneyites attended in such force as to outnumber them. Knight, the leading speaker, could scarcely make himself heard amid the hisses which sought to drown every anti-Kearney sentiment, and the deafening applause that hailed every reference to the leader. Kearney arrived during the session, but was refused admittance, and when his friends tried to force an entrance, they met with a most determined resistance, it being intimated that Kearney would have been shot if he had persevered. Fully half of the assembly thereupon left the hall, to attend the meeting which Kearney formed outside, but the police objected to the obstruction, and used rather severe measures in dispersing the crowd. For this the sergeant in command was soon after suspended, at the pressing instance of Kearney.

Two days later the Kearneyites were convened at Charter Oak Hall, the headquarters for the election campaign, with an attendance of 14 club presidents, viz.: of wards No. 2, 4, 6, 7, 8, 1st branch; 9, 2d branch; 10, 11, branches 1, 2, 4; and 12, and of the Scandinavian, French, and Spanish clubs. A few others were absent because it was club-night. The object of the gathering was to form a plan for the coming campaign; and it was decided that the ward presidents should form a county committee with clerical duties only, for the wards should control the body. Each member of

the party must subscribe five cents for campaign expenses. The city clubs would send sixty delegates to the state convention for the 16th, or three for every assemblyman from the city, the foreign clubs being allowed two delegates each. Two days afterward the club presidents issued an address to the people, enumerating in a rather sweeping manner the evils which the party proposed to remedy, condemning the schemes of office-seekers, repudiating the anti-Kearney faction as corrupt, and recognizing Kearney as president, and as the modern patriot—poor, plain, unassuming, and unselfish. On the day named both parties resorted to tactics whereby to win over the country delegates, and Wellock came to blows with an anti-Kearneyite. The country members determined before deciding to hear the arguments of the respective factions, each of which appointed three speakers for the purpose. The first vote resulted in twenty for Kearney, ten for Roney, and nine against both, a few arriving too late to cast their ballot; but finally all except nine joined Kearney, representing ten counties. Several other counties were in sympathy with the leader, although no delegates had been sent, and a few non-official members from such counties were therefore admitted as delegates. Besides these men, 53 out of the 60 city delegates attended the Kearney convention, of which this leader was chosen president, and three country members vice-presidents. A joint resolution was passed, acknowledging "in Kearney an organizer worthy to rank among the great organizers of history," and deserving their confidence. The officers of the party were reëlected, Kearney as president, Wellock as vice-president, receiving also the title of state lecturer and organizer, and H. M. Moore as general secretary. At the session of the following day the resolution on the non-eligibility of officers for nominations was confirmed; but an amendment was introduced declaring any man in sympathy with the party as eligible for election to the constitutional convention. None of the resolutions created

particular comment among the press, except one demanding that all laws should be ratified by the people, which was declared to be communistic, and subversive of political order.

On the following day the convention proposed nominees for the constitutional convention, Kearney declaring that men should be selected only for ability and integrity, and be taken from all classes, from hod-carriers and carpenters to doctors and lawyers, whose character should be subjected to the closest scrutiny at the sand-lot. He added that the Mc's and O's should be excluded as much as possible, but this was probably a mere phrase. A nomination of himself was promptly declined. The Socialistic Workingmen's Party of the United States, with a claim of one hundred thousand voters, was recognized as a kindred association. The design adopted for a vignette on the workingmen's ticket consisted of a huge boot kicking a Chinaman into the Pacific Ocean, surmounted by the inscription, "The Chinese must go." A constitution was then adopted. The convention adjourned on May 19th, and shortly after Wellock started northward on a brief tour to lecture and to organize clubs. The remaining work of the convention was assumed on the 21st, by the first congressional district convention, which adopted a resolution in favor of a purely secular system of public schools, and the non-interference of the church in affairs of state. Rules were also laid down to govern the nomination of candidates. This convention adjourned on May 27th, after having nominated the eight delegates for the state at large to the constitutional convention, the nominees being presented to the mass-meeting June 12th, and confirmed. The workingmen's county convention at Sacramento adopted the Kearney platform, and nominated candidates on the 22d of May. The anti-Kearney faction, also known as the county convention party, opened their state convention on the same day as their opponents, with fifty city and nine county delegates, the lat-

ter being all from Sonoma county, and with Secretary Knight as the leading spirit, although Roney was chairman. The proposition to exempt from taxation property of less value than $1,000 savored too strongly of a desire to shift the burden of sustaining the government to the shoulders of the wealthy; and yet the non-tax-payers claimed full voice in determining the course of the administration. In this and several other respects the anti-Kearneyites were certainly more radically socialistic than the other faction, probably with a view of strengthening their cause among the extreme adherents of the party, who were supposed to be Kearney's chief point d'appui. They nevertheless rejected an offer from the national labor party convention to join with them and the national union party in nominating delegates so as to sweep the field, and that body formed its own ticket early in June.

As I have said, the workingmen's movement had ever since the Alameda election commanded the respect of politicians seeking office. At the late general election, the democrats had scored a triumphant majority, but now, within a few months, the workingmen had at several local elections turned the tables upon them by an almost complete reversal of the votes; and it was well understood that the adherents of the new party in San Francisco were drawn chiefly from the democrats. As the June election approached, the latter became convinced that their chances were hopeless; nor could the republicans expect success unless they should seize on this opportune split in the opposition rank to court public favor by a modification of their course. It was evident that both parties had failed to retain public confidence, and that the new body rising upon their shoulders was gaining favor by its energetic reform schemes. But it was still untried, and suspicions of its communistic tendencies received support from the incendiary language of the leaders, from certain platform clauses, and from its acknowl-

edgment of the socialistic workingmen's party. In the larger towns, with a numerous class of laborers and persons who were bound to the state by no solid ties of property, who had nothing to lose by extreme reform, there was every prospect for the success of this party. To the small property holders also, on whom the increasing taxation was pressing with great weight, the promises of reform held out by Kearney outweighed any possible danger from mob rule. The preceding hard years had been felt by all classes, and were supposed to have created a general disposition for a change; but this year the harvest prospects were most flattering, and tended to spread a marked hopefulness, particularly among the farmers, the most conservative of people. The intelligence of the farming community was, besides, too advanced to be influenced by shallow reasoners of the Kearney stamp, who hooted down whatever they did not approve. It was understood how rabid and ill-timed was the cry against capital, by which alone the resources of the country could be developed. The ascendancy was feared of a mob guided by incendiary agitation which had, clearly enough, done much to promote stagnancy in business, and check the immigration of a desirable class. The proposal of the Kearneyites to select delegates for the constitutional convention as much as possible from their own ranks, from blacksmiths, hod-carriers, ploughmen, and draymen, as Kearney had stated, could never prove acceptable to the better class of men. In framing a constitution, there was no harm in having all grades of society represented, but it required statesmen to frame American state constitutions; the task was too great to be intrusted to an ignorant Irish rabble, even though that rabble sometimes paraded the streets as a great political party. It required experienced, philosophic, thoughtful minds, well trained in history, law, and economic sciences, and guided by common sense, patriotism, and honor—in short, able and honest jurists. The first constitutional

convention of 1849 was formed when the country was in a chaotic condition; nevertheless, the men composing it did honor to California.

It began to be generally admitted that in forming a constitution, the gravest act in the history of a state, on which depended the future welfare of a great people, partisan spirit should be set aside. A ticket under a non-partisan designation had, accordingly, a good prospect, and this the democrats and republicans were not slow in perceiving. The former were aware that their only chance of maintaining themselves in the field lay in an alliance against the common enemy, the Kearneyites, and pronounced democrats were in favor of such a movement, while old radicals had been sounded and found willing. A coalition had been mooted already before the adjournment of the legislature, but the promoters were accused of being in the interest of monopolists, and it was remarked that certain democratic railroad opponents were excluded from the conference on the subject, while the railroad organs were strenuously advocating it. This feature had probably something to do with the non-agreement of the state central committees of the two parties at their meeting on the 24th of April.

Another attempt at a fusion was made by the republican state central committee, which took the form of an appeal, signed by over 1,200 San Francisco names, calling on twenty-five well-known and leading citizens—thirteen republicans and twelve democrats—to meet on the 8th of May to prepare a non-partisan ticket for the first congressional district that should meet public approval. They responded, formed a non-partisan convention, and issued their address on the 24th, together with the names of the candidates, five of whom had been allotted to the workingmen. A previous attempt to win over this class, when this convention nominated as delegates the president, vice-president, and a member of the executive committee of the trades and labor union, resulted in a resolution of the

union that no member of its representative assembly should accept nomination to office. A communication from the colored voters to the non-partisans, asking for representation, was laid on the table. Kearney had tried early in 1878 to organize a colored workingmen's club, but failed. The desire to form a separate club for colored men was significant in itself, and one of them published a letter stating that his race was well aware that the majority of the Kearneyites disliked negroes as much as Chinamen, and could not, therefore, trust to Kearney. The desire for a non-partisan ticket gained strength throughout the country. The republican committee for the second district, on issuing a call, May 20th, for a district convention, invited the democratic organizations to send an equal number of delegates to it. They met in Sacramento in great harmony, and nominated men from the ranks of one another. On the 22d the democratic state convention met, and indorsed the non-partisan course of the first, second, and third congressional districts. The governor and state officials generally supported the same movement.

There was, however, a large number of republicans and democrats who failed to see in this coalition anything else than a plot on the part of the other party to capture their own adherents, and each body proceeded to make separate nominations. The democrats admitted doing this rather for the purpose of upholding their principles than with any hope of success; while the republicans, who still had some prospects, avowed that the main object must be to defeat the non-partisan element, which it declared to be a democratic combination delivered into the hands of monopolists. The non-partisan organs were equally bitter against both of these parties for their persistency in separate nominations, which could not by any possibility succeed, but merely aid in electing the Kearney ticket. The Kearney organs used the same arguments against the non-partisans. The issue of plat-

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forms and final ratification of the democratic, republican, and non-partisan tickets, at San Francisco, took place on May 28th, and June 6th and 12th, respectively. The resolutions of the latter body dealt clearly and fairly with the questions of the day, and presented ample safeguards against corruption. The principles of the other two parties presented no special points, except a more pronounced resolution against monopolies and unequal taxation. Besides these and the two workingmen's tickets, the feeble national labor party, affiliated with the workingmen's party of the United States, was still in the field, with its principles of inflation and high protection, and with a ticket composed of selections from all of the other parties, only a few new names being inserted. Owing to the new stringent legislation, and the small value of the seats in the constitutional convention, no 'piece clubs' had risen to disgrace the campaign. As June advanced it was observed that many republicans and democrats were losing heart, and turning to the Kearney and particularly the non-partisan sides. As for the Kearneyites, whatever the prospects were in San Francisco, their cause was evidently weakening in Sacramento and San Joaquin, two of the three interior strongholds, and in many other counties their organization was not effective enough to afford great hopes. As the day for the election approached, the contest had narrowed down in most of the counties to the non-partisan and Kearney elements, of whose composition and relative value the county tickets for San Francisco may afford an illustration. Of the 30 non-partisan candidates, 19 were born in America, and ten abroad, seven being from Ireland; 26 were tax-payers, and three non-tax-payers, and 19 had been on the state register for over ten years. The Kearney ticket presented a glaring contrast to this array of old and solid citizens, nearly all of whom were closely connected with the interests of the country. Nineteen on that ticket were foreign born,

six of whom were Irish, and six German, and 15 out of the 30 were represented as non-tax-payers, while only four could be found on the register of 1868, twelve being registered in 1878. The majority of the candidates, therefore, called by this party to frame the organic laws of the state, were comparatively recent citizens, scarcely identified with the community, and more fit to clean legislative halls than sit in them. The influence around them was, besides, revolutionary and unwholesome. On being invited to give their views of the issues, the majority restricted themselves to promising that they would seek the expulsion of the Chinese; but a few were more expressive, and one named said he would indorse the platform were it a thousand times more radical; he was in favor of taxing hoarded wealth and pulling down the rich.

To encourage his followers and terrify their opponents, Kearney put forth a procession Saturday night, June 15th, wherein fully 6,000 joined, including several women, some of whom personified historic characters. The usual transparencies were carried, with mottoes and symbols directed against the Chinese and monopolists, and pointing out official corruption; but the most impressive feature was the lamps, which flickered at the end of sticks from nearly every shoulder. A noticeable transparency was a representation of Kearney's dray stick, borne on one of the oaken staves which the leader had used on his wagon. Each ward carried an announcement of the majority which it expected to gain at the election. The effect of the demonstration was not lost on the anti-Kearneyites, at least, for quite a number came to indorse their old leader, a course followed by the chairman and secretary after the election had shown how futile their opposition had been. But their submission was not accepted, a resolution being passed which decided against the readmission into the party of any member of the revolted county committee. The workingmen of both parties resolved to depart from the custom of

assessing candidates for campaign expenses, which were covered by voluntary subscriptions, the total cost to the Kearney party being less than $800.

Despite the fears of the citizens, the election proved to be one of the most orderly ever held in the country. Conscious of the need for united action, the Kearneyites adhered to the custom of the lower ranks of democrats, to vote the straight ticket, in which act they were encouraged by the wives and daughters of leading men in the party, who most zealously peddled the anti-Chinese ticket. Adherents of other parties exhibited the more independent action of weighing the merits of candidates for themselves, and scratching considerably.

The non-partisans were still animated by the vigilant spirit which had so lately been brought into play against their present opponents, and were extremely active, printing a million tickets, and mailing them to every person in the city and county, at a cost of more than the total campaign expenses of other parties. Their ticket pedlers were also out in force at an equally large cost, and it was asserted by opposition papers that money was freely used to buy votes; so much so, that rumor placed their expenditure at several hundred thousand dollars. In San Francisco the two opposition labor parties concentrated on the Kearney ticket early in the day, and some democratic and republican votes were doubtless influenced in its favor by the polls bulletins, which showed the growing preponderance of the Kearneyites. The first news from the interior was of the same tenor; so that even opposition papers were willing to concede their victory throughout. Of course the joy of the workingmen was unbounded for several days, and Kearney announced that after the ratification of the new constitution, the governor, the mayor of San Francisco, and all the judiciary of California would be deposed and replaced by new men. When the later corrected returns came in from the polls, the Kearneyites would

not for a while admit their accuracy, and the leader of course cried fraud. If the ballot-box has been tampered with, he said, the military companies of the workingmen will "organize a guerilla warfare that will wrench the social system from centre to circumference." The nine-months-old party had, however, every reason to be satisfied with the important success achieved in carrying their county ticket in San Francisco, by a majority of over 5,000 out of a total vote of some 21,000. This, together with the votes gained in the interior, gave them 51 out of the 152 delegates at the convention, and consequently a very respectable influence.

The non-partisans elected 81, the republicans 11, the democrats 7, and the independents 2, the first named having accordingly a majority of five delegates in the convention. Had the same thorough organization and zealous campaigning been carried on in the interior as in San Francisco, combined with greater moderation in language, the result would doubtless have been far more favorable. As it was, fully one third of the voters did not attend, chiefly owing to the harvest, the total vote cast in the state being less than 80,000. The lowest average vote on the workingmen's ticket at large was 35,193, while the non-partisans received 39,881.

The body which achieved the victory in San Francisco estimated its adherents at nearly 15,000, of all trades and nationalities, scattered throughout the twelve wards of the city, each with two to eight clubs. Clubs could not be organized without the approval of the other clubs in the ward, and of the central executive committee, according to a resolution adopted March 6, 1878. Representation had also been accorded to minors, with a view of training them for the duties of citizens; and in the twelfth ward a club was formed in April 1878 of young men between the ages of 16 and 21. Every interior town of note had one or more clubs, those of Oakland possessing a

membership of nearly 2,000, and one of the clubs at Los Angeles numbered 400 adherents. The workingmen's party had, besides, the support of several other semi-political labor associations. The socialistic workingmen's party of the United States, which claimed 100,000 followers, had been recognized by Kearney, and the German section in San Francisco, with 500 members, was attended by Kearneyite leaders. Its chief aims were to substitute coöperation for the wage system, to overthrow monopoly, and maintain freedom of speech. These views are identical with those of the international labor union of America, organized in February 1878, which in its declaration of principles condemned the wage system as despotic, as a bondage, tending to extremes of wealth and poverty, culture and ignorance. Hence the first reform must be a reduction of the hours of labor, which will increase wages, give leisure, enlarge wants, and promote culture. Among the chief opponents of Kearney in his own class was the national labor party of California, which originated in the San Francisco division, organized in midsummer 1877 by De Arcy. It was often confounded with the Kearneyites, and had repeatedly to disavow the connection, denouncing the incendiary agitation which brought business depression. It met in state convention January 18, 1878, and perfected the organization; but being too weak to stand alone, it joined the non-partisans at the June election. The clauses of its platform advocated the control of railroads and telegraphs by the government; the limitation of land grants to actual settlers; the establishment of a general system of irrigation; compulsory and purely secular education; eight-hour labor law; and stoppage of Chinese immigration. This body was distinct from the national union party, which was not a workingmen's association, but a purely political body, organized May 14, 1878. The Order of Caucasians, formed in April 1876, with headquarters at Sacramento, gained an unenviable notoriety in the

spring of 1877 for alleged complicity in the massacre of Chinamen at Chico. Its first constitution contained several strong anti-Chinese clauses, but the rules were moderated. One clause provided that members must report vacancies in all departments of labor, and name those who employ Chinamen. It was opposed to Kearney.

In the spring of 1878 Kearney received invitations to visit the east, but the impending election required his presence in California till July. In this month he made preparations to respond to the call, and arranged a concert, which realized $800 toward the expenses of the trip. He left San Francisco on July 21st, amid the farewell cheers of some 3,000 adherents, and was greeted with similar demonstrations at nearly every station on the route, particularly in California and Nevada, despite his declaration that he intended to have travelled incognito. The object of his journey was partly to visit his aged mother, who lived at Boston with several of her sons, but chiefly to stir up the workingmen in the eastern states to united action against monopoly. Many of the eastern press, which regarded Kearney as a communist rather than a labor agitator, expressed their contempt for the man, and apprehensions for the effect of his tirades on the laboring classes, which had so lately been in arms against their employers. They had good reasons for the feeling, since there can be no doubt that the nine months' agitation in California, attended by incendiary utterances and calls to arms, had kept the low elements of society at fever heat. State and municipal officers had been threatened with assassination, the city with annihilation by sword and fire, and property with confiscation; and this by men who were shielded by a party claiming some 15,000 members in San Francisco alone.

It is worthy of note that the great mass of these men were not Americans, accustomed to reason and

self-control, but blustering foreigners, led by an unnaturalized Englishman, a recently arrived Irishman, and similar low, ignorant aliens who broadly proclaimed their determination to drive from America another class of foreigners claiming an equal right to hospitality. The audacity of it was exceeded only by its insolence. San Francisco was already spoken of in the east as the 'turbulent city,' and the men who had helped to make it so could not be regarded as desirable visitors. Perhaps the predictions of Macaulay, in his famous letter on American institutions, in 1857, were before the minds of the alarmed journalists when they spoke of Kearney's coming. "The day will come," he says, "when in the state of New York a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a legislature. Is it possible to doubt what sort of a legislature will be chosen? On the one side a statesman preaching patience, respect for vested rights, strict observance of public faith. On the other, the demagogue ranting about tyranny of capitalists and usurers, and asking why anybody should be permitted to drink champagne and ride in a carriage while thousands of honest folks are in want of necessaries. Which of the two candidates is likely to be preferred by a workingman who hears his children cry for more bread? . . . . There will be, I fear, spoliation. The spoliation will increase the distress. There is nothing to stop you. Your constitution is all sail and no anchor. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your republic will be as fearfully plundered and laid waste by barbarians in the twentieth century as the Roman empire was in the fifth; with this difference, that the Huns and Vandals who ravaged the Roman empire came from without, and that your Huns and Vandals will have been engendered within your country by your own institutions."

We may take this for what it is worth; but it requires no Macaulay, or Jonah, or St John to predict with certainty for this republic, long before the close of the twentieth century, disintegration and death, if the diseases of demagogy, intellectual prostitution, unjust monopoly, and political and social corruption be not checked.

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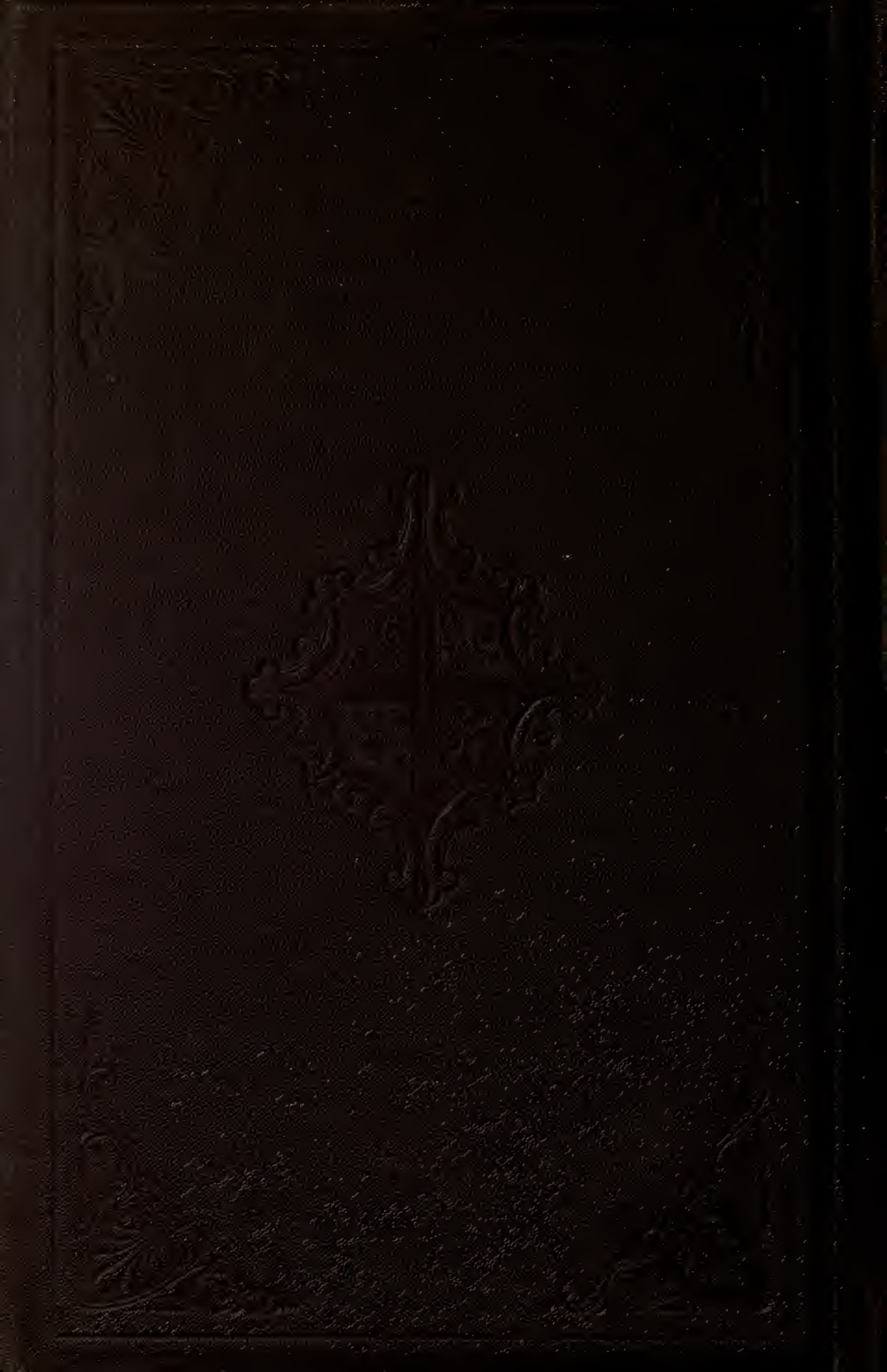
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